

BILL SUMMARY

- MEASURE:** **HB 2245** (Committee Substitute)
- AUTHOR:** Representative Terry Ingmire
- SUBJECT:** Identity theft; requiring disclosure of security breach to certain persons without unreasonable delay; codification; effective date.
- PROVISIONS:** Section 1. NEW LAW Creates the Security Breach Notification Act.
- Section 2. NEW LAW Providing definitions for the act:
1. Breach of a security system – unauthorized access of computer data that compromises the security of personal information, that causes or will cause, identity theft;
 2. Entity – corporations, business trusts, estates, partnerships, LPs, LLPs, LLCs, associations, governments, agencies, or any other entity, whether for profit or not-for-profit;
 3. Encrypted – transformation of data into a form in which there is less of a chance of determining what the data means without a security key;
 4. Financial institution – any business engaged in financial activities;
 5. Individual – person;
 6. Personal information – name, linked with the following data:
 - a. SSN,
 - b. driver license number, or
 - c. financial account, credit, or debit card number.Term does not include information legally obtained from public information or government records;
 7. Notice –
 - a. written notice to postal address of individual or entity,
 - b. telephone notice,
 - c. electronic notice, or
 - d. substitute notice, if notifier demonstrates cost of notice will exceed \$50,000, or number of people exceeds 100,000, or sufficient contact information is not available. Substitute notice means:
 - (1) e-mail notice if e-mail addresses are available,
 - (2) posting on internet, or
 - (3) notice to major statewide media; and
 8. Redact – alteration or deletion of data so no more than the following are accessible personal information:
 - a. 5 digits of an SSN, or
 - b. last 4 digits of a driver license number, state ID card number or account number.

Section 3. NEW LAW A. Any entity that owns computer data of personal information must disclose any breach of security following discovery to any Oklahoma resident whose personal information is believed to have been accessed that may lead to identity theft or other fraud. The disclosure must be made without delay.

B. Any entity must disclose the breach of security if information is accessed and the entity believes that the breach will cause identity theft or other fraud to any Oklahoman.

C. Any entity that maintains personal information data must notify the owner of the information of any breach of security as soon as possible.

D. Notice may be delayed if a law enforcement agency determines and advises the entity that the notice will impede an investigation or national security. Notice must be made without delay after the law enforcement agency determines that notification will no longer impede the investigation or jeopardize national security.

Section 4. NEW LAW A. An entity that maintains its own notification procedures consistent with the timing requirements of this act are in compliance if the entity notifies Oklahomans in the event of a breach of security.

B. 1. A financial institution that complies with the requirements of the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice is in compliance.
2. An entity that complies with the notification requirements established by the functional Federal regulator of the entity is in compliance.

Section 5. NEW LAW A. A violation that results in loss to Oklahomans may be enforced by the Attorney General or a district attorney as under the Oklahoma Consumer Protection Act.

B. Except as in C. (below), the A.G. or a D.A. shall have the only authority to bring action or obtain damages for a violation of this act or a civil penalty not to exceed \$150,000 per breach of security or series of breaches discovered in a single investigation.

C. A violation of this act by a state-chartered or state-licensed financial institution shall be enforceable only by the primary state regulator of the financial institution.

Section 6. NEW LAW This shall apply to discovery or notification of a breach of security that occurs on or after November 1, 2008.

**EFFECTIVE
DATE:** November 1, 2008

PREPARED BY: Arnella Karges

DATE: March 6, 2008