

JAN 21 2011

S.B. NO. 796

A BILL FOR AN ACT

RELATING TO INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 487N, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§487N- Duty to pay for credit monitoring reports. (a)

5 Any business or government agency responsible for a security
6 breach that may result in a crime being committed under section
7 708-839.6, 708-839.7, or 708-839.8 shall be liable for the costs
8 of providing each person whose personal information was
9 disclosed with, at a minimum, a three year subscription to a
10 credit reporting agency's services.

11 (b) No later than seven calendar days after a business or
12 government agency provides notice of the security breach, the
13 business or government agency responsible for the security
14 breach shall provide each person with a choice of not less than
15 two credit reporting agencies from which the person may select
16 to subscribe. The person, if the person so chooses, shall
17 select a credit reporting agency and the credit monitoring and
18 reporting services that the person requires and shall inform the



1 responsible business or government agency of the person's
2 selection. If a person elects not to subscribe to any credit
3 monitoring and reporting services offered by a credit reporting
4 agency, the person shall notify the responsible business or
5 government agency in writing of the person's choice to not
6 subscribe to any credit monitoring or reporting services. The
7 business or government agency responsible for the security
8 breach shall keep a record of each person's credit monitoring
9 and reporting services selection, or election to not subscribe
10 to those services, for at least five years after the receipt by
11 the business or government agency of a person's selection or
12 election under this subsection.

13 (c) The responsible business or government agency shall
14 enroll the person into the credit monitoring and reporting plan
15 of the person's choice within seven calendar days of receipt of
16 the person's selection made under subsection (b) and shall pay
17 all costs associated with the three year subscription to the
18 selected credit reporting agency's services.

19 (d) The office of consumer protection may adopt rules in
20 accordance with chapter 91 to effectuate this section."

21 SECTION 2. Section 487N-1, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 "Credit reporting agency" means a nationwide consumer
4 credit reporting agency, such as Equifax, Experian, or
5 TransUnion, or any successor entity thereof, that provides
6 consumer credit monitoring and reporting services."

7 2. By amending the definition of "security breach" to
8 read:

9 "Security breach" ~~[means an]~~ :

10 (1) Means:

11 (A) An incident of unauthorized access to and
12 acquisition of unencrypted or unredacted records
13 or data containing personal information where
14 illegal use of the personal information has
15 occurred, or is reasonably likely to occur and
16 that creates a risk of harm to a person[-];

17 (B) Any incident of unauthorized access to and
18 acquisition of encrypted records or data
19 containing personal information along with the
20 confidential process or key constitutes a
21 security breach[-—Good]; and



1 (C) Any incident of inadvertent, unauthorized
 2 disclosure of unencrypted or unredacted records
 3 or data containing personal information
 4 constitutes a security breach.

5 (2) Does not include good faith acquisition of personal
 6 information by an employee or agent of the business
 7 for a legitimate purpose is not a security breach;
 8 provided that the personal information is not used for
 9 a purpose other than a lawful purpose of the business
 10 and is not subject to further unauthorized
 11 disclosure."

12 SECTION 3. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun before its effective date.

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Personal Information; Unauthorized Disclosure; Remedy

Description:

Requires a business or government agency responsible for the inadvertent, unauthorized disclosure of personal information to pay for the person's access to credit reports for at least three years.

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