

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 918**

Introduced by Mines, 18

Read first time January 5, 2006

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to financial privacy; to adopt the Personal
- 2 Information Privacy Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. This act shall be known and may be cited as  
2 the Personal Information Privacy Act.

3           Sec. 2. For purposes of the Personal Information Privacy  
4 Act:

5           (1) Breach of the security of the data means unauthorized  
6 acquisition of, or access to, computerized data that compromises  
7 the security, confidentiality, or integrity of personal information  
8 maintained by a person or business entity. Such breach does  
9 not include a good faith acquisition of personal information  
10 by an employee or agent of the person or business entity for  
11 the legitimate purposes of the person or business entity if  
12 the personal information is not used or subject to unauthorized  
13 disclosure;

14           (2) Business entity means a for-profit or not-for-profit  
15 sole proprietorship, partnership, corporation, association, or  
16 other group, however organized;

17           (3) Customer means an individual who provides personal  
18 information to a person or business entity for the purpose of  
19 purchasing or leasing a product or obtaining a service from the  
20 person or business entity;

21           (4) Individual means a natural person;

22           (5)(a) Personal information means any combination of  
23 a customer's names or initials in conjunction with any of the  
24 following data elements, when either the names or initials or the  
25 data element is not encrypted:

- 1           (i) Social security number;
- 2           (ii) Driver's license number or state identification card  
3 number;
- 4           (iii) Account number or credit or debit card number,  
5 alone or in combination with any required security code, access  
6 code, or password that would permit access to a customer's  
7 financial account;
- 8           (iv) A unique electronic identification number, email  
9 address, or routing code, alone or in combination with any required  
10 security code, access code, or password;
- 11           (v) Unique biometric data, such as a fingerprint,  
12 voice print, or retina or iris image, or other unique physical  
13 representation;
- 14           (vi) Home address or telephone number;
- 15           (vii) Mother's maiden name;
- 16           (viii) Month and year of birth; or
- 17           (ix) Such other information as the Attorney General may  
18 add by rule or regulation.
- 19           (b) Personal information does not include publicly  
20 available information that is lawfully made available to the  
21 general public from federal, state, or local government records;  
22 and
- 23           (6) Records means any material, regardless of the  
24 physical form, on which information is recorded or preserved by  
25 any means, including (a) written or spoken words, (b) graphically

1 depicted, (c) printed, or (d) electromagnetically transmitted.  
2 Records does not include publicly available directories containing  
3 information a customer has voluntarily consented to have publicly  
4 disseminated or listed, such as name, address, or telephone number.

5       Sec. 3. Any person or business entity that conducts  
6 business in Nebraska and that owns or licenses computerized data  
7 which includes personal information concerning a customer shall  
8 notify the customer that there has been a breach of the security  
9 of the data following discovery or notification of the breach. The  
10 notification of the customer shall be made in the most expedient  
11 time possible and without unreasonable delay, consistent with the  
12 legitimate needs of law enforcement as provided in section (5) of  
13 this act, or any measures necessary to determine the scope of the  
14 breach and restore the reasonable integrity of the data system.

15       Sec. 4. Any person or business entity that maintains  
16 computerized data which includes personal information concerning a  
17 customer and which the person or business entity does not own shall  
18 notify the owner or licensee of the computerized data of any breach  
19 of the security of the data immediately following discovery of such  
20 breach.

21       Sec. 5. The notification required by section 3 or 4 of  
22 this act may be delayed if a law enforcement agency determines  
23 that the notification will impede a criminal investigation. Such  
24 notification shall be made after the law enforcement agency  
25 determines that it will not compromise the investigation.

1           Sec. 6. (1) For purposes of section 3 or 4 of this act,  
2 notice may be provided by one of the following methods:

3           (a) Written notice;

4           (b) Electronic notice; or

5           (c) If the person or business entity demonstrates that  
6 the cost of providing notice would exceed two hundred fifty  
7 thousand dollars or the customers to be notified exceed five  
8 hundred thousand or if the person or business entity does not have  
9 sufficient contact information, the person or business entity may  
10 provide notice by doing all of the following:

11           (i) Email notice when the person or business entity has  
12 email addresses for the customers;

13           (ii) Conspicuous posting of the notice on the web site of  
14 the person or business entity if such a web site is maintained; and

15           (iii) News release to and publication by major statewide  
16 media.

17           (2) The notice required by section 3 or 4 of this act  
18 shall include all of the following:

19           (a) To the extent possible, a description of the  
20 categories of personal information that were or were reasonably  
21 believed to have been acquired by an unauthorized person;

22           (b) A toll-free number that the customer may use to  
23 contact the person or business entity or the agent of the person or  
24 business entity and from which the customer may learn:

25           (i) The types of information the person or business

1 entity maintained about the customer or about customers in general;

2 and

3 (ii) Whether the person or business entity maintained  
4 information about that customer; and

5 (c) The toll-free telephone numbers and addresses for the  
6 major credit reporting agencies.

7 Sec. 7. Any waiver of the provisions of the Personal  
8 Information Privacy Act is contrary to public policy and is void  
9 and unenforceable.

10 Sec. 8. For purposes of the Personal Information  
11 Privacy Act, the Attorney General may issue subpoenas, adopt and  
12 promulgate rules and regulations, and seek injunctive relief and a  
13 monetary award for civil penalties and attorney's fees and costs.  
14 Additionally, the Attorney General may seek and recover the greater  
15 of two thousand dollars or actual damages for each customer injured  
16 by a violation of the act.