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Summary of New Jersey Identity Theft Protection Act

Consumer Recourse for Identity Theft

Allows recourse to the law enforcement and the courts for victims of identity theft.

People who suspect that they have been a victim of identity theft can contact local law enforcement who is required to take the complaint.

Provides for an expedited judicial determination of innocence where the victim was charged with a crime or mistakenly associated with a criminal conviction record.

Commercial Obligations of Consumer Reporting Agencies

Allows consumers to place a freeze on their consumer reports. Consumer Reporting Agencies must do so and send confirmation within 5 days of request. The freeze prohibits the Consumer Reporting Agency from releasing the consumer's report without authorization from the consumer.

"Consumer" is an individual.

"Consumer Reporting Agency" is any person or entity which regularly assembles or evaluates consumer information for the purpose of providing "consumer reports" to others.

"Consumer Reports" means any communication of information prepared by a Consumer Reporting Agency "bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living" expected to be used to establish eligibility for consumer credit or insurance, employment, or certain other purposes, subject to certain exclusions.

CRA's have one year to implement telephone, Internet-based and other mechanisms to allow consumers to place security freezes on their reports within 24 hours. CRA's have two years to implement telephone, Internet-based and other mechanisms to allow consumers to place security freezes on their reports within 6 hours. CRA's have three year to implement telephone, Internet-

based and other mechanisms to allow consumers to place security freezes on their reports within 1 hour.

Violation punishable by fine of up to \$10,000 per violation.

Commercial Obligations of Data Collectors

“Data Collector” is any person or entity which handles or deals with nonpublic personal information.

Data Collectors who become aware of a security breach, must notify the persons affected and the owners of the data if it is licensed by the Data Collector. If the cost of individual notice would exceed \$250,000 or the number of persons effected is over 500,000, then notice can be given by email, website postings or alerting mass media.

Contractual waivers of this rights is probably not enforceable.

Obligations of other Businesses Generally

Businesses must take reasonable measure s to protect personal information against unauthorized access. Reasonable measures include:

- Implementing and monitoring compliance with policies and procedures for destruction of information (both paper and electronic);
- Conducting due diligence investigations as to third-party companies used to destroy such information. Due diligence requires at least:
 - Review of independent audit of operations and compliance;
 - obtain reliable references; or
 - require certification by recognized trade association;
 - reviewing the company’s security policies and procedures.

Business must memorialize procedures for destruction and proper disposal of personal records in corporate and employee handbooks and similar corporate documents.

Violation punishable by fine of \$3,000 per violation. Private right of action of injunction and attorneys fees.

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Special Restrictions on Social Security Numbers

No person or entity may:

- make a SSN available to the public.
- print an SSN on a card required for obtaining goods or services;
- require unencrypted transmission of an SSN over the Internet;
- require an SSN to access a website, unless password and ID is also required;
- print an SSN on materials to be mailed to the individual, unless required by law;
- disclose an SSN to another person without written consent;
- refuse to do business with an individual who refuses to provide their SSN, unless required by law.

Violation punishable by imprisonment and fine of up to \$5,000 per violation.

Private right of action with statutory damages of \$5,000 plus attorneys fees.

Effective Date

The Consumer Recourse for Identity Theft provisions will take effect immediately.

The remainder of the Act will take effect in 180 days after it is signed by the Governor.

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