

715C.2 Security breach — consumer notification — remedies.

1. Any person who owns or licenses computerized data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation, or volunteer activities and that was subject to a breach of security shall give notice of the breach of security following discovery of such breach of security, or receipt of notification under subsection 2, to any consumer whose personal information was included in the information that was breached. The consumer notification shall be made in the most expeditious manner possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection 3, and consistent with any measures necessary to sufficiently determine contact information for the affected consumers, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data.

2. Any person who maintains or otherwise possesses personal information on behalf of another person shall notify the owner or licensor of the information of any breach of security immediately following discovery of such breach of security if a consumer's personal information was included in the information that was breached.

3. The consumer notification requirements of this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and the agency has made a written request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the person required to give notice in writing.

4. For purposes of this section, notification to the consumer may be provided by one of the following methods:

a. Written notice to the last available address the person has in the person's records.

b. Electronic notice if the person's customary method of communication with the consumer is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in chapter 554D and the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001.

c. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, that the affected class of consumers to be notified exceeds three hundred fifty thousand persons, or if the person does not have sufficient contact information to provide notice. Substitute notice shall consist of the following:

(1) Electronic mail notice when the person has an electronic mail address for the affected consumers.

(2) Conspicuous posting of the notice or a link to the notice on the internet website of the person if the person maintains an internet website.

(3) Notification to major statewide media.

5. Notice pursuant to this section shall include, at a minimum, all of the following:

a. A description of the breach of security.

b. The approximate date of the breach of security.

c. The type of personal information obtained as a result of the breach of security.

d. Contact information for consumer reporting agencies.

e. Advice to the consumer to report suspected incidents of identity theft to local law enforcement or the attorney general.

6. Notwithstanding subsection 1, notification is not required if, after an appropriate investigation or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the person determined that no reasonable likelihood of financial harm to the consumers whose personal information has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years.

7. This section does not apply to any of the following:

a. A person who complies with notification requirements or breach of security procedures that provide greater protection to personal information and at least as thorough disclosure requirements than that provided by this section pursuant to the rules, regulations,

procedures, guidance, or guidelines established by the person's primary or functional federal regulator.

b. A person who complies with a state or federal law that provides greater protection to personal information and at least as thorough disclosure requirements for breach of security or personal information than that provided by this section.

c. A person who is subject to and complies with regulations promulgated pursuant to Title V of the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. § 6801 – 6809.

8. a. A violation of this chapter is an unlawful practice pursuant to section 714.16 and, in addition to the remedies provided to the attorney general pursuant to section 714.16, subsection 7, the attorney general may seek and obtain an order that a party held to violate this section pay damages to the attorney general on behalf of a person injured by the violation.

b. The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under the law.

2008 Acts, ch 1154, §2

Identity theft — civil cause of action, see §714.16B

Identity theft passport, see §715A.9A