

By: Senator(s) Tollison

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2089

1 AN ACT TO CREATE THE "MISSISSIPPI CLEAN CREDIT AND IDENTITY
2 THEFT PROTECTION ACT"; TO DEFINE CERTAIN TERMS; TO AUTHORIZE
3 CONSUMERS TO PLACE A SECURITY FREEZE ON THEIR CREDIT FILES; TO
4 LIMIT THE RELEASE OR SHARING OF CREDIT HEADER INFORMATION; TO
5 PROVIDE A CONSUMER WITH THE RIGHT TO FILE A POLICE REPORT
6 REGARDING IDENTITY THEFT WITH THE LOCAL LAW ENFORCEMENT AGENCY
7 HAVING JURISDICTION OVER HIS ACTUAL RESIDENCE; TO PROVIDE IDENTITY
8 THEFT VICTIMS WITH THE RIGHT TO OBTAIN A COURT ORDERED FACTUAL
9 DECLARATION OF INNOCENCE AND TO CREATE A STATEWIDE CRIMINAL
10 IDENTITY THEFT REGISTRY; TO REQUIRE NOTICE TO CONSUMERS IN THE
11 EVENT THAT SECURITY OF DATA HAS BEEN BREACHED; TO LIMIT THE USE OF
12 SOCIAL SECURITY NUMBERS; TO PROHIBIT INSURERS FROM USING
13 INFORMATION REGARDING A CONSUMER'S CREDITWORTHINESS FOR THE
14 PURPOSE OF DETERMINING RATES FOR INSURANCE OR ELIGIBILITY FOR
15 COVERAGE; TO REGULATE THE DISPOSAL OF RECORDS CONTAINING PERSONAL
16 INFORMATION; AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** The provisions of this act shall be known and may
19 be cited as the "Mississippi Clean Credit and Identity Theft
20 Protection Act."

21 **SECTION 2.** For the purposes of this act, the following terms
22 shall have the following meanings:

23 (a) The term "person" means any individual,
24 partnership, corporation, trust, estate, cooperative, association,
25 government or governmental subdivision or agency, or other entity.

26 (b) "Consumer" means an individual.

27 (c) "Consumer reporting agency" means any person which,
28 for monetary fees, dues, or on a cooperative nonprofit basis,
29 regularly engages in whole or in part in the practice of
30 assembling or evaluating consumer credit information or other
31 information on consumers for the purpose of furnishing consumer
32 reports to third parties.

33 (d) "Consumer report" or "credit report" means any
34 written, oral, or other communication of any information by a

35 consumer reporting agency bearing on a consumer's credit
36 worthiness, credit standing, credit capacity, character, general
37 reputation, personal characteristics, or mode of living which is
38 used or expected to be used or collected in whole or in part for
39 the purpose of serving as a factor in establishing the consumer's
40 eligibility for:

41 (i) Credit or insurance to be used primarily for
42 personal, family, or household purposes, except that nothing in
43 this act authorizes the use of credit evaluations, credit scoring
44 or insurance scoring in the underwriting of personal lines of
45 property or casualty insurance;

46 (ii) Employment purposes; or

47 (iii) Any other purpose authorized under 15 USC,
48 Section 1681b.

49 (e) "Credit card" has the same meaning as in Section
50 103 of the Truth in Lending Act.

51 (f) "Credit header information" means written, oral or
52 other communication of any information by a consumer reporting
53 agency regarding the social security number of the consumer, or
54 any derivative thereof, and any other personally identifiable
55 information of the consumer that is derived using any nonpublic
56 personal information, except the name, address and telephone
57 number of the consumer if all are listed in a residential
58 telephone directory available in the locality of the consumer.

59 (g) "Credit history" means any written, oral or other
60 communication of any information by a consumer reporting agency
61 bearing on a consumer's creditworthiness, credit standing or
62 credit capacity that is used or expected to be used, or collected
63 in whole or in part, for the purpose of determining personal lines
64 insurance premiums or eligibility for coverage.

65 (h) "Debit card" means any card or device issued by a
66 financial institution to a consumer for use in initiating an
67 electronic fund transfer from the account holding assets of the

68 consumer at such financial institution, for the purpose of
69 transferring money between accounts or obtaining money, property,
70 labor or services.

71 **SECTION 3.** (1) **Definitions.** For the purposes of this
72 section, the following terms shall have the following meanings:

73 (a) "Security freeze" means a notice, at the request of
74 the consumer and subject to certain exceptions, that prohibits the
75 consumer reporting agency from releasing all or any part of the
76 consumer's credit report or any information derived from it
77 without the express authorization of the consumer. If a security
78 freeze is in place, such a report or information may not be
79 released to a third party without prior express authorization from
80 the consumer. This paragraph does not prevent a consumer
81 reporting agency from advising a third party that a security
82 freeze is in effect with respect to the consumer's credit report.

83 (b) "Reviewing the account" or "account review"
84 includes activities related to account maintenance, monitoring,
85 credit line increases, and account upgrades and enhancements.

86 (2) **Security freeze: Timing, covered entities, cost.**

87 (a) A consumer may elect to place a "security freeze"
88 on his or her credit report by:

89 (i) Making a request by mail;

90 (ii) Making a request by telephone by providing
91 certain personal identification; or

92 (iii) Making a request directly to the consumer
93 reporting agency through a secure electronic mail connection if
94 such connection is made available by the agency. Credit reporting
95 agencies shall make a secure electronic mail method of requesting
96 a security freeze available within one hundred eighty (180) days
97 of the effective date of this act.

98 (b) A consumer reporting agency shall place a security
99 freeze on a consumer's credit report no later than five (5)
100 business days after receiving a written or telephone request from

101 the consumer or three (3) business days after receiving a secure
102 electronic mail request. Within one (1) year of the effective
103 date of this act, a consumer reporting agency shall place a
104 security freeze on a consumer's credit report no later than three
105 (3) business days after receiving a written or telephone request
106 from the consumer or one (1) business day after receiving a secure
107 electronic mail request. Within two (2) years of the effective
108 date of this act, a consumer reporting agency shall place a
109 security freeze on a consumer's credit reporting agency no later
110 than one (1) business day after receiving a written or telephone
111 request.

112 (c) The consumer reporting agency shall send a written
113 confirmation of the security freeze to the consumer within five
114 (5) business days of placing the freeze and at the same time shall
115 provide the consumer with a unique personal identification number
116 or password to be used by the consumer when providing
117 authorization for the release of his or her credit for a specific
118 party or period of time, or when permanently lifting the freeze.
119 Within one (1) year of the effective date of this act, the
120 consumer reporting agency shall send such a written confirmation
121 and unique personal identification number or password to the
122 consumer no later than one (1) business day after placing the
123 freeze.

124 (d) If the consumer wishes to allow his or her credit
125 report to be accessed for a specific party or period of time while
126 a freeze is in place, he or she shall contact the consumer
127 reporting agency via telephone, mail, or secure electronic mail,
128 with a request that the freeze be temporarily lifted, and provide
129 the following:

- 130 (i) Proper identification;
- 131 (ii) The unique personal identification number or
132 password provided by the consumer reporting agency pursuant to
133 paragraph (c) of subsection (2); and

134 (iii) The proper information regarding the third
135 party who is to receive the credit report or the time period for
136 which the report shall be available to users of the credit report.

137 (e) A consumer reporting agency that receives a request
138 from a consumer to temporarily lift a freeze on a credit report
139 pursuant to paragraph (d) of subsection (2) shall comply with the
140 request no later than three (3) business days after receiving the
141 request. Within one (1) year of the effective date of this act, a
142 consumer reporting agency shall honor such a request no later than
143 one business day after receiving the request. Within two (2)
144 years of the effective date of this act, a consumer reporting
145 agency shall honor such a request made by electronic mail or by
146 telephone within fifteen (15) minutes of receiving the request.

147 (f) A consumer reporting agency shall develop
148 procedures involving the use of telephone, fax, or, upon the
149 consent of the consumer in the manner required by the Electronic
150 Signatures in Global and National Commerce Act [E-Sign] for
151 legally required notices, by the Internet, e-mail, or other
152 electronic media to receive and process a request from a consumer
153 to temporarily lift a freeze on a credit report pursuant to
154 paragraph (d) of subsection (2) in an expedited manner.

155 (g) A consumer reporting agency shall remove or
156 temporarily lift a freeze placed on a consumer's credit report
157 only in the following cases:

158 (i) Upon consumer request, pursuant to paragraph
159 (d) or paragraph (j) of subsection (2);

160 (ii) If the consumer's credit report was frozen
161 due to a material misrepresentation of fact by the consumer. If a
162 consumer reporting agency intends to remove a freeze upon a
163 consumer's credit report pursuant to this paragraph (g), the
164 consumer reporting agency shall notify the consumer in writing
165 five (5) business days prior to removing the freeze on the
166 consumer's credit report.

167 (h) If a third party requests access to a consumer
168 credit report on which a security freeze is in effect, and this
169 request is in connection with an application for credit or any
170 other use, and the consumer does not allow his or her credit
171 report to be accessed for that specific party or period of time,
172 the third party may treat the application as incomplete.

173 (i) If a third party requests access to a consumer
174 credit report on which a security freeze is in effect for the
175 purpose of receiving, extending, or otherwise utilizing the credit
176 therein, and not for the sole purpose of account review, the
177 consumer credit report agency must notify the consumer that an
178 attempt has been made to access the credit report.

179 (j) A security freeze shall remain in place until the
180 consumer requests that the security freeze be removed. A consumer
181 reporting agency shall remove a security freeze within three (3)
182 business days of receiving a request for removal from the
183 consumer, who provides both of the following:

184 (i) Proper identification; and

185 (ii) The unique personal identification number or
186 password provided by the consumer reporting agency pursuant to
187 paragraph (c) of subsection (2).

188 Not later than one (1) year after the effective date of this
189 act, a consumer reporting agency shall remove a security freeze
190 within one (1) business day after receiving such a request.

191 (k) A consumer reporting agency shall require proper
192 identification of the person making a request to place or remove a
193 security freeze.

194 (l) A consumer reporting agency may not suggest or
195 otherwise state or imply to a third party that the consumer's
196 security freeze reflects a negative credit score, history, report
197 or rating.

198 (m) The provisions of this section do not apply to the
199 use of a consumer credit report by any of the following:

200 (i) A person, or the person's subsidiary,
201 affiliate, agent or assignee with which the consumer has or, prior
202 to assignment, had an account, contract or debtor-creditor
203 relationship for the purposes of reviewing the account or
204 collecting the financial obligation owing for the account,
205 contract or debt.

206 (ii) A subsidiary, affiliate, agent, assignee or
207 prospective assignee of a person to whom access has been granted
208 under paragraph (d) of subsection (2) for purposes of facilitating
209 the extension of credit or other permissible use.

210 (iii) Any person acting pursuant to a court order,
211 warrant, or subpoena.

212 (iv) A state or local agency which administers a
213 program for establishing and enforcing child support obligations.

214 (v) The State Health Department or its agents or
215 assigns acting to investigate fraud.

216 (vi) The State Tax Commission or its agents or
217 assigns acting to investigate or collect delinquent taxes or
218 unpaid court orders or to fulfill any of its other statutory
219 responsibilities.

220 (vii) A person for the purposes of prescreening as
221 defined by the federal Fair Credit Reporting Act.

222 (viii) Any person or entity administering a credit
223 file monitoring subscription service to which the consumer has
224 subscribed.

225 (vix) Any person or entity for the purpose of
226 providing a consumer with a copy of his or her credit report upon
227 the consumer's request.

228 (n) A consumer may not be charged for any security
229 freeze services, including, but not limited to, the placement or
230 lifting of a security freeze. A consumer, however, can be charged
231 no more than Five Dollars (\$5.00) only in the following discreet
232 circumstance: If the consumer fails to retain the original

233 personal identification number provided by the agency, the
234 consumer may not be charged for a one-time reissue of the same or
235 a new personal identification number; however, the consumer may be
236 charged no more than Five Dollars (\$5.00) for subsequent instances
237 of loss of the personal identification number.

238 (3) **Notice of rights.** At any time that a consumer is
239 required to receive a summary of rights required under Section 609
240 of the federal Fair Credit Reporting Act, the following notice
241 shall be included:

242 **Consumers Have the Right to Obtain a Security Freeze**

243 You may obtain a security freeze on your credit report at no
244 charge to protect your privacy and ensure that credit is not
245 granted in your name without your knowledge. You have a right to
246 place a "security freeze" on your credit report pursuant to state
247 law.

248 The security freeze will prohibit a consumer reporting agency
249 from releasing any information in your credit report without your
250 express authorization or approval.

251 The security freeze is designed to prevent credit, loans, and
252 services from being approved in your name without your consent.
253 When you place a security freeze on your credit report, within
254 five (5) business days (and by July 1, 2008, no later than one (1)
255 business day) you will be provided a personal identification
256 number or password to use if you choose to remove the freeze on
257 your credit report or to temporarily authorize the release of your
258 credit report for a specific party, parties or period of time
259 after the freeze is in place. To provide that authorization, you
260 must contact the consumer reporting agency and provide all of the
261 following:

262 (a) The unique personal identification number or
263 password provided by the consumer reporting agency.

264 (b) Proper identification to verify your identity.

265 (c) The proper information regarding the third party or
266 parties who are to receive the credit report or the period of time
267 for which the report shall be available to users of the credit
268 report.

269 A consumer reporting agency that receives a request from a
270 consumer to lift temporarily a freeze on a credit report shall
271 comply with the request no later than three (3) business days
272 after receiving the request. (By July 1, 2009, the consumer
273 reporting agency must temporarily lift the freeze within fifteen
274 (15) minutes of receiving the request.)

275 A security freeze does not apply to circumstances where you
276 have an existing account relationship and a copy of your report is
277 requested by your existing creditor or its agents or affiliates
278 for certain types of account review, collection, fraud control or
279 similar activities.

280 If you are actively seeking a new credit, loan, utility,
281 telephone, or insurance account, you should understand that the
282 procedures involved in lifting a security freeze may slow your own
283 applications for credit. You should plan ahead and lift a freeze,
284 either completely if you are shopping around, or specifically for
285 a certain creditor, with enough advance notice before you apply
286 for new credit for the lifting to take effect. Until July 1,
287 2008, you should lift the freeze at least three (3) business days
288 before applying; between July 1, 2008, and July 1, 2009, you
289 should lift the freeze at least one (1) business day before
290 applying; and after July 1, 2009, you should lift the freeze at
291 least fifteen (15) minutes before applying for a new account.

292 You have a right to bring a civil action against someone who
293 violates your rights under the credit reporting laws. The action
294 can be brought against a consumer reporting agency or a user of
295 your credit report.

296 (4) **Violations; penalties.** If a consumer reporting agency
297 erroneously, whether by accident or design, violates the security

298 freeze by releasing credit information that has been placed under
299 a security freeze, the affected consumer is entitled to:

300 (a) Notification within five (5) business days of the
301 release of the information, including specificity as to the
302 information released and the third party recipient of the
303 information.

304 (b) File a complaint with the Federal Trade Commission
305 and the State Attorney General.

306 (c) In a civil action against the consumer reporting
307 agency recover:

308 (i) Injunctive relief to prevent or restrain
309 further violation of the security freeze;

310 (ii) A civil penalty in an amount not to exceed
311 Ten Thousand Dollars (\$10,000.00) for each violation plus any
312 damages available under other civil laws; and

313 (iii) Reasonable expenses, court costs,
314 investigative costs, and attorney's fees.

315 (d) Each violation of the security freeze shall be
316 counted as a separate incident for purposes of imposing penalties
317 under this section.

318 **SECTION 4.** A consumer reporting agency may furnish
319 information from a consumer's credit header only to those who have
320 a permissible purpose to obtain the consumer's consumer report,
321 under Section 604 of the federal Fair Credit Reporting Act, as
322 codified at 15 USC, Section 1681(b), and that permissible purpose
323 applies to the request for the credit header information.

324 **SECTION 5.** (1) A person who has learned or reasonably
325 suspects that he or she has been the victim of identity theft may
326 contact the local law enforcement agency that has jurisdiction
327 over his or her actual residence, which shall take a police report
328 of the matter, and provide the complainant with a copy of that
329 report. Notwithstanding the fact that jurisdiction may lie
330 elsewhere for investigation and prosecution of a crime of identity

331 theft, the local law enforcement agency shall take the complaint
332 and provide the complainant with a copy of the complaint and may
333 refer the complaint to a law enforcement agency in that different
334 jurisdiction.

335 (2) Nothing in this section interferes with the discretion
336 of a local police department to allocate resources for
337 investigations of crimes. A complaint filed under this section is
338 not required to be counted as an open case for purposes such as
339 compiling open case statistics.

340 **SECTION 6.** (1) A person who reasonably believes that he or
341 she is the victim of identity theft may petition a court, or the
342 court, on its own motion or upon application of the prosecuting
343 attorney, may move for an expedited judicial determination of his
344 or her factual innocence, where the perpetrator of the identity
345 theft was arrested for, cited for, or convicted of a crime under
346 the victim's identity, or where a criminal complaint has been
347 filed against the perpetrator in the victim's name, or where the
348 victim's identity has been mistakenly associated with a record of
349 criminal conviction. Any judicial determination of factual
350 innocence made pursuant to this section may be heard and
351 determined upon declarations, affidavits, police reports, or other
352 material, relevant, and reliable information submitted by the
353 parties or ordered to be part of the record by the court. Where
354 the court determines that the petition or motion is meritorious
355 and that there is no reasonable cause to believe that the victim
356 committed the offense for which the perpetrator of the identity
357 theft was arrested, cited, convicted, or subject to a criminal
358 complaint in the victim's name, or that the victim's identity has
359 been mistakenly associated with a record of criminal conviction,
360 the court shall find the victim factually innocent of that
361 offense. If the victim is found factually innocent, the court
362 shall issue an order certifying this determination.

363 (2) After a court has issued a determination of factual
364 innocence pursuant to this section, the court may order the name
365 and associated personal identifying information contained in court
366 records, files, and indexes accessible by the public deleted,
367 sealed, or labeled to show that the data is impersonated and does
368 not reflect the defendant's identity.

369 (3) Upon making a determination of factual innocence, the
370 court must provide the consumer written documentation of such
371 order.

372 (4) A court that has issued a determination of factual
373 innocence pursuant to this section may at any time vacate that
374 determination if the petition, or any information submitted in
375 support of the petition, is found to contain any material
376 misrepresentation or fraud.

377 (5) The Supreme Court shall develop a form for use in issuing an
378 order pursuant to this section.

379 (6) The Department of Public Safety shall establish and maintain
380 a database of individuals who have been victims of identity theft and
381 that have received determinations of factual innocence. The Department
382 of Public Safety shall provide a victim of identity theft or his or her
383 authorized representative access to the database in order to establish
384 that the individual has been a victim of identity theft. Access to the
385 database shall be limited to criminal justice agencies, victims of
386 identity theft, and individuals and agencies authorized by the victims.

387 (7) The Department of Public Safety shall establish and maintain
388 a toll-free number to provide access to information under subsection
389 (6).

390 (8) In order for a victim of identity theft to be included in the
391 database established pursuant to subsection (6), he or she shall submit
392 to the Department of Public Safety a court order obtained pursuant to
393 any provision of law, a full set of fingerprints, and any other
394 information prescribed by the department.

395 (9) Upon receiving information pursuant to subsection (8), the
396 Department of Public Safety shall verify the identity of the victim
397 against any driver's license or other identification record maintained
398 by the Department of Motor Vehicles.

399 (10) This section shall be operative within One hundred
400 eighty (180) days of the passage of this act.

401 **SECTION 7.** (1) **Definitions.** As used in this section:

402 (a) "Breach of the security of a system" means the
403 unauthorized access and acquisition of unencrypted and unredacted
404 computerized data that compromises the security or confidentiality
405 of personal information maintained by an individual or entity as
406 part of a database of personal information regarding multiple
407 individuals and that causes or the individual or entity reasonably
408 believes has caused or will cause identity theft or other fraud to
409 any resident of this state. However, good-faith acquisition of
410 personal information by an employee or agent of an individual or
411 entity for the purposes of the individual or the entity is not a
412 breach of the security of the system, provided that the personal
413 information is not used for a purpose other than a lawful purpose
414 of the individual or entity or subject to further unauthorized
415 disclosure.

416 (b) "Entity" includes corporations, business trusts,
417 estates, partnerships, limited partnerships, limited liability
418 partnerships, limited liability companies, associations,
419 organizations, joint ventures, governments, governmental
420 subdivisions, agencies or instrumentalities, or any other legal
421 entity, whether for profit or not-for-profit.

422 (c) "Encrypted" means transformation of data through
423 the use of an algorithmic process into a form in which there is a
424 low probability of assigning meaning without use of a confidential
425 process or key, or securing the information by another method that
426 renders the data elements unreadable or unusable.

427 (d) "Financial institution" has the meaning given that
428 term in Section 6809(3) of Title 15, United States Code.

429 (e) "Individual" means a natural person.

430 (f) "Personal information" means the first name or
431 first initial and last name linked to any one or more of the
432 following data elements that relate to a resident of this state,
433 when the data elements are neither encrypted nor redacted:

434 (i) Social security number;

435 (ii) Driver's license number or state
436 identification card number issued in lieu of a driver's license;

437 (iii) Financial account number, or credit card or
438 debit card number, in combination with any required security code,
439 access code or password that would permit access to a resident's
440 financial accounts; or

441 (iv) The term does not include information that is
442 lawfully obtained from publicly available information, or from
443 federal, state or local government records lawfully made available
444 to the general public.

445 (g) "Notice" means:

446 (i) Written notice to the postal address in the
447 records of the individual or entity;

448 (ii) Telephone notice;

449 (iii) Electronic notice; or

450 (iv) Substitute notice, if the individual or the
451 entity required to provide notice demonstrates that the cost of
452 providing notice will exceed Fifty Thousand Dollars (\$50,000.00),
453 or that the affected class of residents to be notified exceeds one
454 hundred thousand (100,000) persons, or that the individual or the
455 entity does not have sufficient contact information or consent to
456 provide notice as described in this paragraph. Substitute notice
457 consists of any two (2) of the following:

458 1. E-mail notice if the individual or the
459 entity has e-mail addresses for the members of the affected class
460 of residents;

461 2. Conspicuous posting of the notice on the
462 Web site of the individual or the entity if the individual or the
463 commercial entity maintains a Web site;

464 3. Notice to major statewide media.

465 (h) "Redact" means alteration or truncation of data
466 such that no more than the last four (4) digits of a social
467 security number, driver's license number, state identification
468 card number or account number is accessible as part of the
469 personal information.

470 (2) **Disclosure of Breach of Security of Computerized**
471 **Personal Information by an Individual or Entity.** (a) An
472 individual or entity that owns or licenses computerized data that
473 includes personal information shall disclose any breach of the
474 security of the system following discovery or notification of the
475 breach of the security of the system to any resident of this state
476 whose unencrypted and unredacted personal information was or is
477 reasonably believed to have been accessed and acquired by an
478 unauthorized person and that causes, or the individual or entity
479 reasonably believes has caused or will cause, identity theft or
480 other fraud to any resident of this state. Except as provided in
481 paragraph (d) or in order to take any measures necessary to
482 determine the scope of the breach and to restore the reasonable
483 integrity of the system, the disclosure shall be made without
484 unreasonable delay.

485 (b) An individual or entity must disclose the breach of
486 the security of the system if encrypted information is accessed
487 and acquired in an unencrypted form, or if the security breach
488 involves a person with access to the encryption key and the
489 individual or entity reasonably believes that such breach has

490 caused or will cause identity theft or other fraud to any resident
491 of this state.

492 (c) An individual or entity that maintains computerized
493 data that includes personal information that the individual or
494 entity does not own or license shall notify the owner or licensee
495 of the information of any breach of the security of the system as
496 soon as practicable following discovery, if the personal
497 information was or is the entity reasonably believes was accessed
498 and acquired by an unauthorized person.

499 (d) Notice required by this section may be delayed if a
500 law enforcement agency determines and advises the individual or
501 entity that the notice will impede a criminal or civil
502 investigation, or homeland or national security. Notice required
503 by this section must be made without unreasonable delay after the
504 law enforcement agency determines that notification will no longer
505 impede the investigation or jeopardize national or homeland
506 security.

507 (3) **Procedures Deemed in Compliance with Security Breach**

508 **Requirements.** (a) An entity that maintains its own notification
509 procedures as part of an information privacy or security policy
510 for the treatment of personal information and that are consistent
511 with the timing requirements of this section shall be deemed to be
512 in compliance with the notification requirements of this section
513 if it notifies residents of this state in accordance with its
514 procedures in the event of a breach of security of the system.

515 (b) (i) A financial institution that complies with the
516 notification requirements prescribed by the Federal Interagency
517 Guidance on Response Programs for Unauthorized Access to Customer
518 Information and Customer Notice is deemed to be in compliance with
519 this section.

520 (ii) An entity that complies with the notification
521 requirements or procedures pursuant to the rules, regulations,
522 procedures or guidelines established by the entity's primary or

523 functional federal regulator shall be in compliance with this
524 section.

525 (4) **Violations.** (a) A violation of this section that
526 results in injury or loss to residents of this state may be
527 enforced by the Office of the Attorney General as an unfair trade
528 practice.

529 (b) Except as provided by paragraph (c) of this
530 subsection, the Office of Attorney General shall have exclusive
531 authority to bring action and may obtain either actual damages for
532 a violation of this section or a civil penalty not to exceed One
533 Hundred Fifty Thousand Dollars (\$150,000.00) per breach of the
534 security of the system or series of breaches of a similar nature
535 that are discovered in a single investigation.

536 (c) A violation of this section by a state-chartered or
537 licensed financial institution shall be enforceable exclusively by
538 the financial institution's primary state regulator.

539 (5) **Applicability.** This section shall apply to the
540 discovery or notification of a breach of the security of the
541 system that occurs on or after July 1, 2007.

542 (6) **Preemption.** This section shall supersede and preempt
543 all rules, regulations, codes, statutes or ordinances of any
544 county or municipality regarding the matters expressly set forth
545 in this section.

546 **SECTION 8.** (1) Except as provided in subsection (3), a
547 person or entity, including a state or local agency, may not do
548 any of the following:

549 (a) Intentionally communicate or otherwise make
550 available to the general public an individual's social security
551 number.

552 (b) Print an individual's social security number on any
553 card required for the individual to access products or services
554 provided by the person or entity.

555 (c) Require an individual to transmit his or her social
556 security number over the Internet, unless the connection is secure
557 or the social security number is encrypted, the number is
558 essential to the transaction, and there is no other identifier
559 that could reasonably be used.

560 (d) Require an individual to use his or her social
561 security number to access an Internet Web site.

562 (e) Print an individual's social security number on any
563 materials that are mailed to the individual, unless state or
564 federal law requires the social security number to be on the
565 document to be mailed.

566 (f) Sell, lease, loan, trade, rent or otherwise
567 disclose an individual's social security number to a third party
568 for any purpose without written consent to the disclosure from the
569 individual.

570 (g) Refuse to do business with an individual because
571 the individual will not consent to the receipt by such person of
572 the social security account number of such individual, unless such
573 person is expressly required under federal law, in connection with
574 doing business with an individual, to submit to the federal
575 government such individual's social security account number.

576 (2) This section does not apply to documents that are
577 recorded or required to be open to the public pursuant to
578 Mississippi Public Records Act.

579 (3) Any entity covered by this section shall make reasonable
580 efforts to cooperate, through systems testing and other means, to
581 ensure that the requirements of this act are implemented on or
582 before the dates specified in this section.

583 (4) Penalties for violations of this section:

584 (a) A person who violates this section is responsible
585 for the payment of a civil fine of not more than Three Thousand
586 Dollars (\$3,000.00).

587 (b) A person who knowingly violates this section is
588 guilty of a misdemeanor punishable by imprisonment for not more
589 than thirty (30) days or a fine of not more than Five Thousand
590 Dollars (\$5,000.00), or both.

591 (c) An individual may bring a civil action against a
592 person who violates this section and may recover actual damages or
593 Five Thousand Dollars (\$5,000.00), whichever is greater, plus
594 reasonable court costs and attorney's fees.

595 **SECTION 9.** With respect to private passenger automobile,
596 residential property and other personal lines insurance, an
597 insurer may not:

598 (a) Refuse to underwrite, cancel, refuse to renew a
599 risk, or increase a renewal premium, based, in whole or in part,
600 on the credit history of an applicant or insured;

601 (b) Rate a risk based, in whole or in part, on the
602 credit history of an applicant or insured in any manner,
603 including:

604 (i) The provision or removal of a discount;

605 (ii) Assigning the insured or applicant to a
606 rating tier; or

607 (iii) Placing an insured or applicant with an
608 affiliated company; or

609 (c) Require a particular payment plan based, in whole
610 or in part, on the credit history of the insured or applicant.

611 **SECTION 10.** This act shall take effect and be in force from
612 and after July 1, 2007.