

By: Senator(s) Watson, Dawkins

To: Judiciary, Division B

SENATE BILL NO. 2995

1 AN ACT TO REQUIRE NOTICE OF A BREACH OF SECURITY; TO DEFINE  
2 CERTAIN TERMS; TO PROVIDE THAT NOTICE MAY BE DELAYED FOR A  
3 REASONABLE PERIOD OF TIME IF NOTICE WILL IMPEDE A CRIMINAL  
4 INVESTIGATION; TO PROVIDE METHODS OF NOTICE; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** (1) For purposes of this section, "breach of  
8 security" means unauthorized access to or acquisition of  
9 electronic files, media, databases or computerized data containing  
10 personal information when access to the personal information has  
11 not been secured by encryption or by any other method or  
12 technology that renders the personal information unreadable or  
13 unusable; "personal information" means an individual's first name  
14 or first initial and last name in combination with any one or more  
15 of the following data:

16 (a) Social security number;

17 (b) Driver's license number or state identification  
18 card number; or

19 (c) Account number, credit or debit card number, in  
20 combination with any required security code, access code or  
21 password that would permit access to an individual's financial  
22 account. "Personal information" does not include publicly  
23 available information that is lawfully made available to the  
24 general public from federal, state or local government records or  
25 widely distributed media.

26 (2) Any person who conducts business in this state, and who,  
27 in the ordinary course of such person's business, owns, licenses  
28 or maintains computerized data that includes personal information,



29 shall disclose any breach of security following the discovery of  
30 the breach to any resident of this state whose personal  
31 information was, or is reasonably believed to have been, accessed  
32 by an unauthorized person through such breach of security. Such  
33 disclosure shall be made without unreasonable delay, subject to  
34 the provisions of subsection (3) of this section and the  
35 completion of an investigation by such person to determine the  
36 nature and scope of the incident, to identify the individuals  
37 affected, or to restore the reasonable integrity of the data  
38 system. Such notification shall not be required if, after an  
39 appropriate investigation and consultation with relevant federal,  
40 state and local agencies responsible for law enforcement, the  
41 person reasonably determines that the breach will not likely  
42 result in harm to the individuals whose personal information has  
43 been acquired and assessed.

44 (3) Any person that maintains computerized data that  
45 includes personal information that the person does not own shall  
46 notify the owner or licensee of the information of any breach of  
47 the security of the data immediately following its discovery, if  
48 the personal information was, or is reasonably believed to have  
49 been accessed by an unauthorized person.

50 (4) Any notification required by this section shall be  
51 delayed for a reasonable period of time if a law enforcement  
52 agency determines that the notification will impede a criminal  
53 investigation and such law enforcement agency has made a request  
54 that the notification be delayed. Any such delayed notification  
55 shall be made after such law enforcement agency determines that  
56 notification will not compromise the criminal investigation and so  
57 notifies the person of such determination.

58 (5) Any notice required by the provisions of this section  
59 may be provided by one of the following methods: (a) written  
60 notice; (b) telephone notice; or (c) electronic notice, provided  
61 such notice is consistent with the provisions regarding electronic



62 records and signatures set forth in 15 USC 7001; (d) substitute  
63 notice, provided such person demonstrates that the cost of  
64 providing notice in accordance with paragraph (a), (b) or (c) of  
65 this subsection would exceed Two Hundred Fifty Thousand Dollars  
66 (\$250,000.00), that the affected class of subject persons to be  
67 notified exceeds five hundred thousand (500,000) persons or the  
68 person does not have sufficient contact information. Substitute  
69 notice shall consist of the following: electronic mail notice  
70 when the person, business or agency has an electronic mail address  
71 for the affected persons; conspicuous posting of the notice on the  
72 website of the person, business or agency if the person maintains  
73 one; and notification to major statewide media, including  
74 newspapers, radio and television.

75 (6) Any person that maintains its own security breach  
76 procedures as part of an information security policy for the  
77 treatment of personal information and otherwise complies with the  
78 timing requirements of this section, shall be deemed to be in  
79 compliance with the security breach notification requirements of  
80 this section, provided such person notifies subject persons in  
81 accordance with such person's policies in the event of a breach of  
82 security. Any person that maintains such a security breach  
83 procedure pursuant to the rules, regulations, procedures or  
84 guidelines established by the primary or functional regulator, as  
85 defined in 15 USC 6809(4), shall be deemed to be in compliance  
86 with the security breach notification requirements of this  
87 section, provided such person notifies subject persons in  
88 accordance with the policies or the rules, regulations, procedures  
89 or guidelines established by the primary or functional regulator  
90 in the event of a breach of security of the system.

91 (7) Failure to comply with the requirements of this section  
92 shall constitute an unfair trade practice and shall be enforced by  
93 the Attorney General.



94           **SECTION 2.** This act shall take effect and be in force from  
95 and after July 1, 2009.

