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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL OFFENSES -- INDENTITY THEFT PROTECTION ACT OF
2015

Introduced By: Representatives Ackerman, Shekarchi, and Filippi

Date Introduced: February 18, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-49.3-3 of the General Laws in Chapter 11-49.3 entitled "Identity
2 Theft Protection Act of 2015" is hereby amended to read as follows:

3 **11-49.3-3. Definitions.**

4 (a) The following definitions apply to this section:

5 (1) "Breach of the security of the system" means unauthorized access or acquisition of
6 unencrypted, computerized data information that compromises the security, confidentiality, or
7 integrity of personal information maintained by the municipal agency, state agency, or person.
8 Good-faith acquisition of personal information by an employee or agent of the agency for the
9 purposes of the agency is not a breach of the security of the system; provided, that the personal
10 information is not used or subject to further unauthorized disclosure.

11 (2) "Encrypted" means the transformation of data through the use of a one hundred twenty-
12 eight (128) bit or higher algorithmic process into a form in which there is a low probability of
13 assigning meaning without use of a confidential process or key. Data shall not be considered to be
14 encrypted if it is acquired in combination with any key, security code, or password that would
15 permit access to the encrypted data.

16 (3) "Health insurance information" means an individual's health insurance policy number,
17 subscriber identification number, or any unique identifier used by a health insurer to identify the
18 individual.

1 (4) "Medical information" means any information regarding an individual's medical
2 history, mental or physical condition, or medical treatment or diagnosis by a healthcare professional
3 or provider.

4 (5) "Municipal agency" means any department, division, agency, commission, board,
5 office, bureau, authority, quasi-public authority, or school, fire, or water district within Rhode
6 Island, other than a state agency, and any other agency that is in any branch of municipal
7 government and exercises governmental functions other than in an advisory nature.

8 (6) "Owner" means the original collector of the information.

9 (7) "Person" shall include any individual, sole proprietorship, partnership, association,
10 corporation, joint venture, business, legal entity, trust, estate, cooperative, or other commercial
11 entity.

12 (8) "Personal information" means an individual's first name or first initial and last name in
13 combination with any one or more of the following data elements, when the name and the data
14 elements are not encrypted or are in hard copy, paper format:

15 (i) Social security number;

16 (ii) Driver's license number, Rhode Island identification card number, or tribal
17 identification number;

18 (iii) Account number, credit, or debit card number, in combination with any required
19 security code, access code, password, or personal identification number, that would permit access
20 to an individual's financial account;

21 (iv) Medical or health insurance information; ~~or~~

22 (v) E-mail address with any required security code, access code, or password that would
23 permit access to an individual's personal, medical, insurance, or financial account; or

24 (vi) Any information concerning a natural person which, because of name, number,
25 personal mark, or other identifier, can be used to identify such natural person.

26 (9) "Remediation service provider" means any person who or that, in the usual course of
27 business, provides services pertaining to a consumer credit report including, but not limited to,
28 credit report monitoring and alerts, that are intended to mitigate the potential for identity theft.

29 (10) "State agency" means any department, division, agency, commission, board, office,
30 bureau, authority, or quasi-public authority within Rhode Island; either branch of the Rhode Island
31 general assembly or an agency or committee thereof; the judiciary; or any other agency that is in
32 any branch of Rhode Island state government and that exercises governmental functions other than
33 in an advisory nature.

34 (b) For purposes of this section, personal information does not include publicly available

1 information that is lawfully made available to the general public from federal, state, or local
2 government records.

3 (c) For purposes of this section, "notice" may be provided by one of the following methods:

4 (i) Written notice;

5 (ii) Electronic notice, if the notice provided is consistent with the provisions regarding
6 electronic records and signatures set forth in 15 U.S.C. § 7001; or

7 (iii) Substitute notice, if the municipal agency, state agency, or person demonstrates that
8 the cost of providing notice would exceed twenty-five thousand dollars (\$25,000), or that the
9 affected class of subject persons to be notified exceeds fifty thousand (50,000), or the municipal
10 agency, state agency, or person does not have sufficient contact information. Substitute notice shall
11 consist of all of the following:

12 (A) E-mail notice when the municipal agency, state agency, or person has an e-mail address
13 for the subject persons;

14 (B) Conspicuous posting of the notice on the municipal agency's, state agency's or person's
15 website page, if the municipal agency, state agency, or person maintains one; and

16 (C) Notification to major statewide media.

17 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would expand the definition of "personal information" to include a catchall
2 category, ensuring the ever-changing forms of personal information that can be used to commit
3 identity theft are protected. These other forms of personal information include biometric data, ITIN
4 numbers, passport numbers, or any range of data that "can be used to identify" a person. Hacks and
5 breaches impacting consumers who have provided a business or governmental entity with these
6 additional forms of data would trigger the breach notification provisions in § 11-49.3-4 and the
7 risk-based information security program provisions in § 11-49.3-2.

8 This act would take effect upon passage.

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