

HOUSE BILL No. 6102

May 8, 2008, Introduced by Reps. Valentine, Palmer, Corriveau, Donigan, Robert Jones, Leland, Constan, Polidori, Simpson, Jackson, Scott, Espinoza, Brown, Wojno, Angerer, Warren, Young, Bauer, Spade, Miller, Dean and Meadows and referred to the Committee on Judiciary.

A bill to amend 2004 PA 452, entitled
"Identity theft protection act,"
(MCL 445.61 to 445.77) by adding section 12c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 12C. (1) IF A PERSON OR AGENCY THAT MAINTAINS A DATABASE
2 THAT INCLUDES PERSONAL IDENTIFYING INFORMATION REGARDING MULTIPLE
3 INDIVIDUALS SELLS OR OTHERWISE TRANSFERS ANY PERSONAL IDENTIFYING
4 INFORMATION CONCERNING A RESIDENT OF THIS STATE FROM THAT DATABASE
5 TO ANOTHER PERSON OR AGENCY, THE PERSON OR AGENCY TRANSFERRING THE
6 PERSONAL IDENTIFYING INFORMATION SHALL PROVIDE A NOTICE TO THAT
7 RESIDENT THAT INDICATES WHAT PERSONAL IDENTIFYING INFORMATION THE
8 PERSON OR AGENCY IS TRANSFERRING AND THE REASON FOR THE TRANSFER,
9 IDENTIFIES THE TRANSFEREE OF THAT INFORMATION, AND INCLUDES A

1 TELEPHONE NUMBER OR OTHER CONTACT INFORMATION FOR THE PERSON OR
2 AGENCY TRANSFERRING THAT INFORMATION THAT THE RESIDENT MAY USE TO
3 NOTIFY THE PERSON OR AGENCY CONCERNING ANY ERRORS IN HIS OR HER
4 PERSONAL IDENTIFYING INFORMATION OR TO REQUEST REMOVAL OF HIS OR
5 HER PERSONAL IDENTIFYING INFORMATION FROM THE DATABASE.

6 (2) AN AGENCY OR PERSON SHALL PROVIDE A NOTICE REQUIRED UNDER
7 THIS SECTION BY PROVIDING 1 OR MORE OF THE FOLLOWING TO THE
8 RECIPIENT:

9 (A) WRITTEN NOTICE SENT TO THE RECIPIENT AT THE RECIPIENT'S
10 POSTAL ADDRESS IN THE RECORDS OF THE AGENCY OR PERSON.

11 (B) WRITTEN NOTICE SENT ELECTRONICALLY TO THE RECIPIENT IF ANY
12 OF THE FOLLOWING ARE MET:

13 (i) THE RECIPIENT HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC
14 NOTICE.

15 (ii) THE PERSON OR AGENCY HAS AN EXISTING BUSINESS RELATIONSHIP
16 WITH THE RECIPIENT THAT INCLUDES PERIODIC ELECTRONIC MAIL
17 COMMUNICATIONS AND BASED ON THOSE COMMUNICATIONS THE PERSON OR
18 AGENCY REASONABLY BELIEVES THAT IT HAS THE RECIPIENT'S CURRENT
19 ELECTRONIC MAIL ADDRESS.

20 (iii) THE PERSON OR AGENCY CONDUCTS ITS BUSINESS PRIMARILY
21 THROUGH INTERNET ACCOUNT TRANSACTIONS OR ON THE INTERNET.

22 (C) IF NOT OTHERWISE PROHIBITED BY STATE OR FEDERAL LAW,
23 NOTICE GIVEN BY TELEPHONE BY AN INDIVIDUAL WHO REPRESENTS THE
24 PERSON OR AGENCY IF ALL OF THE FOLLOWING ARE MET:

25 (i) THE NOTICE IS NOT GIVEN IN WHOLE OR IN PART BY USE OF A
26 RECORDED MESSAGE.

27 (ii) THE RECIPIENT HAS EXPRESSLY CONSENTED TO RECEIVE NOTICE BY

1 TELEPHONE, OR IF THE RECIPIENT HAS NOT EXPRESSLY CONSENTED TO
2 RECEIVE NOTICE BY TELEPHONE, THE PERSON OR AGENCY ALSO PROVIDES
3 NOTICE UNDER SUBDIVISION (A) OR (B) IF THE NOTICE BY TELEPHONE DOES
4 NOT RESULT IN A LIVE CONVERSATION BETWEEN THE INDIVIDUAL
5 REPRESENTING THE PERSON OR AGENCY AND THE RECIPIENT WITHIN 3
6 BUSINESS DAYS AFTER THE INITIAL ATTEMPT TO PROVIDE TELEPHONIC
7 NOTICE.

8 (3) A NOTICE UNDER THIS SECTION SHALL MEET ALL OF THE
9 FOLLOWING:

10 (A) FOR A NOTICE PROVIDED UNDER SUBSECTION (2) (A) OR (B), BE
11 WRITTEN IN A CLEAR AND CONSPICUOUS MANNER AND CONTAIN THE CONTENT
12 REQUIRED UNDER SUBSECTION (2).

13 (B) FOR A NOTICE PROVIDED UNDER SUBSECTION (2) (C), CLEARLY
14 COMMUNICATE THE CONTENT REQUIRED UNDER SUBSECTION (2) TO THE
15 RECIPIENT OF THE TELEPHONE CALL.

16 (4) SUBJECT TO SUBSECTION (5), A PERSON THAT KNOWINGLY FAILS
17 TO PROVIDE ANY NOTICE REQUIRED UNDER THIS SECTION MAY BE ORDERED TO
18 PAY A CIVIL FINE OF NOT MORE THAN \$250.00 FOR EACH FAILURE TO
19 PROVIDE NOTICE. THE ATTORNEY GENERAL OR A PROSECUTING ATTORNEY MAY
20 BRING AN ACTION TO RECOVER A CIVIL FINE UNDER THIS SECTION.

21 (5) THE AGGREGATE LIABILITY OF A PERSON FOR CIVIL FINES UNDER
22 SUBSECTION (4) FOR MULTIPLE VIOLATIONS OF SUBSECTION (4) THAT ARISE
23 FROM THE SAME TRANSFER OR INFORMATION SHALL NOT EXCEED \$750,000.00.

24 (6) SUBSECTIONS (3) AND (4) DO NOT AFFECT THE AVAILABILITY OF
25 ANY CIVIL REMEDY FOR A VIOLATION OF STATE OR FEDERAL LAW.

26 Enacting section 1. This amendatory act does not take effect
27 unless all of the following bills of the 94th Legislature are

1 enacted into law:

2 (a) Senate Bill No.____ or House Bill No. 6099(request no.
3 05635'07).

4 (b) Senate Bill No.____ or House Bill No. 6100(request no.
5 05636'07).

6 (c) Senate Bill No.____ or House Bill No. 6101(request no.
7 05637'07).

8 (d) Senate Bill No.____ or House Bill No. 6103(request no.
9 05639'07).

10 (e) Senate Bill No.____ or House Bill No. 6104(request no.
11 05979'07).

12 (f) Senate Bill No.____ or House Bill No. 6105(request no.
13 05980'07).

14 (g) Senate Bill No.____ or House Bill No. 6106(request no.
15 05981'07).

16 (h) Senate Bill No.____ or House Bill No. 6107(request no.
17 05982'07).