

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SL&C 12637

1 penalty may not exceed \$50,000; and

2 (2) may be enjoined from further violations.

3 (b) If an information collector who is not a governmental agency violates  
4 AS 45.48.010 - 45.48.090 with regard to the personal information of a state resident,  
5 the violation is an unfair or deceptive act or practice under AS 45.50.471 - 45.50.561.

6 However,

7 (1) the information collector is not subject to the civil penalties  
8 imposed under AS 45.50.551 but is liable to the state for a civil penalty of up to \$500  
9 for each state resident who was not notified under AS 45.48.010 - 45.48.090, except  
10 that the total civil penalty may not exceed \$50,000; and

11 (2) damages that may be awarded against the information collector  
12 under

13 (A) AS 45.50.531 are limited to actual economic damages that  
14 do not exceed \$500; and

15 (B) AS 45.50.537 are limited to actual economic damages.

16 (c) The Department of Administration may enforce (a) of this section against a  
17 governmental agency. The procedure for review of an order or action of the  
18 department under this subsection is the same as the procedure provided by AS 44.62  
19 (Administrative Procedure Act), except that the office of administrative hearings  
20 (AS 44.64.010) shall conduct the hearings in contested cases and the decision may be  
21 appealed under AS 44.64.030(c).

22 **Sec. 45.48.090. Definitions.** In AS 45.48.010 - 45.48.090,

23 (1) "breach of the security" means unauthorized acquisition, or  
24 reasonable belief of unauthorized acquisition, of personal information that  
25 compromises the security, confidentiality, or integrity of the personal information  
26 maintained by the information collector; in this paragraph, "acquisition" includes  
27 acquisition by

28 (A) photocopying, facsimile, or other paper-based method;

29 (B) a device, including a computer, that can read, write, or  
30 store information that is represented in numerical form; or

31 (C) a method not identified by (A) or (B) of this paragraph;

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(2) "covered person" means a

- (A) person doing business;
- (B) a governmental agency; or
- (C) a person with more than 10 employees;

(3) "governmental agency" means a state or local governmental agency, except for an agency of the judicial branch;

(4) "information collector" means a covered person who owns or licenses personal information in any form if the personal information includes personal information on a state resident;

(5) "information distributor" means a person who is an information collector and who owns or licenses personal information to an information recipient;

(6) "information recipient" means a person who is an information collector but who does not own or have the right to license to another information collector the personal information received by the person from an information distributor;

(7) "personal information" means information in any form on an individual that is not encrypted or redacted, or is encrypted and the encryption key has been accessed or acquired, and that consists of a combination of

(A) an individual's name; in this subparagraph, "individual's name" means a combination of an individual's

- (i) first name or first initial; and
- (ii) last name; and

(B) one or more of the following information elements:

- (i) the individual's social security number;
- (ii) the individual's driver's license number or state identification card number;
- (iii) except as provided in (iv) of this subparagraph, the individual's account number, credit card number, or debit card number;
- (iv) if an account can only be accessed with a personal code, the number in (iii) of this subparagraph and the personal code; in this sub-subparagraph, "personal code" means a security code, an

1 access code, a personal identification number, or a password;

2 (v) passwords, personal identification numbers, or other  
3 access codes for financial accounts.

4 **Article 2. Credit Report and Credit Score Security Freeze.**

5 **Sec. 45.48.100. Security freeze authorized.** A consumer may prohibit a  
6 consumer credit reporting agency from releasing all or a part of the consumer's credit  
7 report or credit score without the express authorization of the consumer by placing a  
8 security freeze on the consumer's credit report.

9 **Sec. 45.48.110. Placement of security freeze.** (a) To place a security freeze, a  
10 consumer shall make the request to the consumer credit reporting agency

11 (1) by mail to the address designated by the consumer credit reporting  
12 agency to receive security freeze requests; or

13 (2) as allowed by (b) of this section.

14 (b) A consumer may make a request under (a) of this section by telephone or  
15 by fax, the Internet, or other electronic media if the consumer credit reporting agency  
16 has developed procedures for using the telephone or an electronic medium to receive  
17 and process the request in an expedited manner.

18 (c) A consumer credit reporting agency shall place a security freeze within  
19 five business days after receiving a request under (a) or (b) of this section and proper  
20 identification from the consumer.

21 **Sec. 45.48.120. Confirmation of security freeze.** (a) Within 10 business days  
22 after a consumer makes the request under AS 45.48.110, a consumer credit reporting  
23 agency shall send a written confirmation of the placement of the security freeze to the  
24 consumer. The confirmation must also inform the consumer that the consumer credit  
25 reporting agency may charge, as allowed by AS 45.48.160, a fee for third-party access  
26 during the security freeze.

27 (b) At the same time that the consumer credit reporting agency sends a  
28 confirmation under (a) of this section, the consumer credit reporting agency shall  
29 provide the consumer with a unique personal identification number, password, or  
30 similar device to be used by the consumer when the consumer authorizes the release of  
31 the consumer's credit report or credit score under AS 45.48.130.

1           **Sec. 45.48.130. Access and actions during security freeze.** (a) While a  
2 security freeze is in place, a consumer credit reporting agency shall allow a third party  
3 access to a consumer's credit report or credit score if the consumer requests that the  
4 consumer credit reporting agency allow the access.

5           (b) To make a request under (a) of this section, the consumer shall contact the  
6 consumer credit reporting agency by mail at the address designated by the consumer  
7 credit reporting agency to receive security freeze requests or as allowed by (c) of this  
8 section, authorize the consumer credit reporting agency to allow the access, and  
9 provide the consumer credit reporting agency with

10                   (1) proper identification to verify the consumer's identity;

11                   (2) the unique personal identification number, password, or similar  
12 device provided under AS 45.48.120(b); and

13                   (3) the proper information necessary to identify the third party to  
14 whom the consumer credit reporting agency may allow the access or the time period  
15 during which the consumer credit reporting agency may allow the access to third  
16 parties who request the access.

17           (c) In addition to making the request by mail, a consumer may make a request  
18 under (a) of this section by telephone or by fax, the Internet, or other electronic media  
19 if the consumer credit reporting agency has developed procedures for using the  
20 telephone or an electronic medium to receive and process the request in an expedited  
21 manner.

22           (d) A consumer credit reporting agency that receives a request from a  
23 consumer under (b) or (c) of this section shall comply with the request within 15  
24 minutes after receiving the request by telephone or by an electronic medium or within  
25 three business days after receiving the request by mail.

26           (e) If a security freeze is in place, a consumer credit reporting agency may not  
27 release the credit report or credit score to a third party without the prior express  
28 authorization of the consumer.

29           (f) If a security freeze is in place on a consumer's credit report and credit score  
30 and if a third party applies to a consumer credit reporting agency to provide the third  
31 party with access to the consumer's credit report or credit score, the consumer credit

1 reporting agency and, except as provided for insurers under (g) of this section, the  
2 third party may treat the third party's application as incomplete unless the consumer  
3 authorizes the access under (a) of this section.

4 (g) If an insurer requests access to a consumer's credit report and credit score  
5 on which a security freeze is in place, unless the consumer authorizes access under (a)  
6 of this section, the insurer may, notwithstanding AS 21.36.460,

7 (1) treat the consumer's application as incomplete;

8 (2) decline the consumer's application if the consumer does not lift the  
9 security freeze for the insurer after a request by the insurer or the insurer's agent;

10 (3) treat the consumer as if the consumer has a neutral credit rating;

11 (4) exclude the use of credit information as a factor and use only  
12 underwriting criteria; or

13 (5) treat the consumer in a manner that is otherwise approved by the  
14 division of insurance.

15 (h) If a security freeze is in place, a consumer credit reporting agency may not  
16 change the consumer's official information in the consumer's credit report and credit  
17 score without sending a written statement of the change to the consumer within 30  
18 days after the change is made. A consumer credit reporting agency is not required to  
19 send a written statement if the consumer credit reporting agency makes a technical  
20 change in the consumer's official information. If a consumer credit reporting agency  
21 makes a change, other than a technical change, in a consumer's address, the consumer  
22 credit reporting agency shall send the written statement to the consumer at both the  
23 new address and the former address. In this subsection,

24 (1) "official information" means name, birth date, social security  
25 number, and address;

26 (2) "technical change" means changing spelling, transposing numbers  
27 or letters, ab'reviating a word, or spelling out an abbreviation.

28 (i) This section is not intended to prevent a consumer credit reporting agency  
29 from advising a third party that requests access to a consumer's credit report or credit  
30 score that a security freeze is in effect.

31 (j) The procedures used by a consumer credit reporting agency for

1 implementing the provisions of this section may include the use of telephone,  
2 facsimile, or electronic means if making the disclosure by the electronic means is  
3 consistent with the provisions regarding electronic records and signatures required for  
4 notices legally required to be in writing under 15 U.S.C. 7001 et seq. (Electronic  
5 Signatures in Global and National Commerce Act).

6 **Sec. 45.48.140. Removal of security freeze.** (a) Except as provided by  
7 AS 45.48.130, a consumer credit reporting agency may not remove a security freeze  
8 unless

9 (1) the consumer requests that the consumer credit reporting agency  
10 remove the security freeze under (b) of this section; or

11 (2) the consumer made a material misrepresentation of fact to the  
12 consumer credit reporting agency when the consumer requested the security freeze  
13 under AS 45.48.110; if a consumer credit reporting agency intends to remove a  
14 security freeze on a consumer's credit report under this paragraph, the consumer credit  
15 reporting agency shall notify the consumer in writing before removing the security  
16 freeze.

17 (b) A consumer credit reporting agency shall remove a security freeze within  
18 three days after receiving a request for removal from the consumer who requested the  
19 security freeze.

20 (c) To make a request under (b) of this section, the consumer shall contact the  
21 consumer credit reporting agency by mail or as allowed by (d) of this section,  
22 authorize the consumer credit reporting agency to remove the security freeze, and  
23 provide the consumer credit reporting agency with

24 (1) proper identification to verify the consumer's identity; and

25 (2) the unique personal identification number, password, or similar  
26 device provided under AS 45.48.120(b).

27 (d) In addition to mail, a consumer may make a request under (b) of this  
28 section by telephone or by fax, the Internet, or other electronic media if the consumer  
29 credit reporting agency has developed procedures for using the telephone or an  
30 electronic medium to receive and process the request in an expedited manner.

31 **Sec. 45.48.150. Prohibition.** When dealing with a third party, a consumer

1 credit reporting agency may not suggest, state, or imply that a consumer's security  
2 freeze reflects a negative credit score, history, report, or rating.

3 **Sec. 45.48.160. Charges.** (a) Except as provided by (b), (c), or (d) of this  
4 section, a consumer credit reporting agency may not charge a consumer to place or  
5 remove a security freeze, to provide access under AS 45.48.130, or to take any other  
6 action, including the issuance of a personal identification number, password, or similar  
7 device under AS 45.48.120, that is related to the placement of, removal of, or allowing  
8 access to a credit report or credit score on which a security freeze has been placed.

9 (b) A consumer credit reporting agency may charge a consumer \$5 for placing  
10 a security freeze.

11 (c) If a consumer makes more than two access requests during a calendar year,  
12 a consumer credit reporting agency may charge the consumer \$2 for each additional  
13 access request made by the consumer during that calendar year. In this subsection,  
14 "access request" means a request made by the consumer under AS 45.48.130 to allow  
15 third-party access to the consumer's credit report or credit score on which a security  
16 freeze has been placed.

17 (d) If a consumer fails to retain a personal identification number, password, or  
18 similar device issued under AS 45.48.120, a consumer credit reporting agency may  
19 charge the consumer up to \$5 for each time after the first time that the consumer credit  
20 reporting agency issues the consumer another personal identification number,  
21 password, or similar device because the consumer failed to retain the personal  
22 identification number, password, or similar device.

23 (e) A consumer credit reporting agency may not charge a consumer a fee  
24 under (b) or (c) of this section if the consumer has been a victim of identity theft and  
25 provides the consumer credit reporting agency with a complaint filed by the consumer  
26 with a law enforcement agency.

27 **Sec. 45.48.170. Notice of rights.** When a consumer credit reporting agency is  
28 required to give a consumer a summary of rights under 15 U.S.C. 1681g (Fair Credit  
29 Reporting Act), a consumer credit reporting agency shall also give the consumer the  
30 following notice:

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

1           You may obtain a security freeze on your credit report and  
2 credit score for \$5 to protect your privacy and ensure that credit is not  
3 granted in your name without your knowledge. You may not have to  
4 pay the \$5 charge if you are a victim of identity theft. You have a right  
5 to place a "security freeze" on your credit report and credit score under  
6 state law (AS 45.48.100 - 45.48.290).

7           The security freeze will prohibit a consumer credit reporting  
8 agency from releasing your credit score and any information in your  
9 credit report without your express authorization or approval.

10           The security freeze is designed to prevent credit, loans, and  
11 other services from being approved in your name without your consent.  
12 However, you should be aware that using a security freeze to take  
13 control over who gets access to the personal and financial information  
14 in your credit report and credit score may delay, interfere with, or  
15 prohibit the timely approval of any subsequent request or application  
16 you make regarding a new loan, credit, a mortgage, a governmental  
17 service, a governmental payment, a cellular telephone, a utility, an  
18 Internet credit card application, an extension of credit at point of sale,  
19 and other items and services.

20           When you place a security freeze on your credit report and  
21 credit score, within 10 business days you will be provided a personal  
22 identification number, password, or similar device to use if you choose  
23 to remove the freeze on your credit report and credit score or to  
24 temporarily authorize the release of your credit report and credit score  
25 to a specific third party or specific third parties or for a specific period  
26 of time after the freeze is in place. To provide that authorization, you  
27 must contact the consumer credit reporting agency and provide all of  
28 the following:

- 29                   (1) proper identification to verify your identity;  
30                   (2) the personal identification number, password, or  
31 similar device provided by the consumer credit reporting agency;

1 (3) proper information necessary to identify the third  
2 party or third parties who are authorized to receive the credit report and  
3 credit score or the specific period of time for which the credit report  
4 and credit score are to be available to third parties.

5 A consumer credit reporting agency that receives your request  
6 to temporarily lift a freeze on a credit report and credit score is required  
7 to comply with the request within 15 minutes after receiving your  
8 request if you make the request by telephone, or an electronic method if  
9 the agency provides an electronic method, or within three business days  
10 after receiving your request if you make the request by mail. After the  
11 first two requests in a year, the consumer credit reporting agency may  
12 charge you \$2 to temporarily lift the freeze.

13 A security freeze does not apply to circumstances where you  
14 have an existing account relationship and a copy of your credit report  
15 and credit score are requested by your existing creditor or its agents or  
16 affiliates for certain types of account review, collection, fraud control,  
17 or similar activities.

18 If you are actively seeking credit, you should understand that  
19 the procedures involved in lifting a security freeze may slow your own  
20 applications for credit. You should plan ahead and lift a freeze, either  
21 completely if you are shopping around, or specifically for a certain  
22 creditor, days before applying for new credit.

23 You have a right to bring a civil action against someone who  
24 violates your rights under these laws on security freezes. The action can  
25 be brought against a consumer credit reporting agency.

26 **Sec. 45.48.180. Notification after violation.** If a consumer credit reporting  
27 agency violates a security freeze by releasing a consumer's credit report or credit  
28 score, the consumer credit reporting agency shall notify the consumer within five  
29 business days after discovering or being notified of the release, and the information in  
30 the notice must include an identification of the information released and of the third  
31 party who received the information.

1           **Sec. 45.48.190. Resellers.** A consumer credit reporting agency that acts as a  
2 reseller of consumer information shall honor a security freeze placed on a consumer's  
3 credit report and credit score by another consumer credit reporting agency.

4           **Sec. 45.48.200. Violations and penalties.** (a) A consumer who suffers  
5 damages as a result of a person's violation of AS 45.48.100 - 45.48.290 may bring an  
6 action in court against the person and recover, in the case of a violation where the  
7 person acted

8                   (1) negligently, actual economic damages, court costs allowed by the  
9 rules of court, and full reasonable attorney fees;

10                   (2) knowingly,

11                           (A) damages as described in (1) of this subsection;

12                           (B) punitive damages that are not less than \$100 nor more than  
13 \$5,000 for each violation as the court determines to be appropriate; and

14                           (C) other relief that the court determines to be appropriate.

15           (b) A consumer may bring an action in court against a person for a violation or  
16 threatened violation of AS 45.48.100 - 45.48.290 for injunctive relief, whether or  
17 not the consumer seeks another remedy under this section.

18           (c) Notwithstanding (a)(2) of this section, a person who knowingly violates  
19 AS 45.48.100 - 45.48.290 is liable in a class action for an amount that the court  
20 allows. When determining the amount of an award in a class action under this  
21 subsection, the court shall consider, among the relevant factors, the amount of any  
22 actual damages awarded, the frequency of the violations, the resources of the violator,  
23 and the number of consumers adversely affected.

24           (d) In this section, "knowingly" has the meaning given in AS 11.81.900.

25           **Sec. 45.48.210. Exemptions.** (a) The provisions of AS 45.48.100 - 45.48.290  
26 do not apply to the use of a credit report by

27                   (1) a person, the person's subsidiary, affiliate, or agent, or the person's  
28 assignee with whom a consumer has or, before the assignment, had an account,  
29 contract, or debtor-creditor relationship if the purpose of the use is to review the  
30 consumer's account or to collect a financial obligation owing on the account, contract,  
31 or debt;

1 (2) a subsidiary, an affiliate, an agent, an assignee, or a prospective  
2 assignee of a person to whom access has been granted under AS 45.48.130 if the  
3 purpose of the use is to facilitate the extension of credit or another permissible use;

4 (3) a person acting under a court order, warrant, or subpoena;

5 (4) an agency of a state or municipality that administers a program for  
6 establishing and enforcing child support obligations;

7 (5) the Department of Health and Social Services, its agents, or its  
8 assigns when investigating fraud;

9 (6) the Department of Revenue, its agents, or its assigns when  
10 investigating or collecting delinquent taxes or unpaid court orders or when  
11 implementing its other statutory responsibilities;

12 (7) a person if the purpose of the use is prescreening allowed under 15  
13 U.S.C. 1681b(c) (Fair Credit Reporting Act);

14 (8) a person administering a credit file monitoring subscription service  
15 to which the consumer has subscribed;

16 (9) a person providing a consumer with a copy of the consumer's credit  
17 report or credit score at the consumer's request; or

18 (10) ~~a consumer credit reporting agency~~ <sup>reseller</sup> if the data base or file of the  
19 consumer credit reporting agency consists entirely of information concerning and used  
20 solely for one or more of the following purposes:

21 (A) criminal record information;

22 (B) personal loss history information;

23 (C) fraud prevention or detection;

24 (D) tenant screening; or

25 (E) employment screening.

26 (b) Except as provided by AS 45.48.190, the provisions of AS 45.48.100 -  
27 45.48.290 do not apply to a person when acting only as a reseller of consumer  
28 information.

29 **Sec. 45.48.290. Definitions.** In AS 45.48.100 - 45.48.290,

30 (1) "account review" means activities related to account maintenance,  
31 account monitoring, credit line increases, and account upgrades and enhancements;

1 (2) "consumer" means an individual who is the subject of a credit  
2 report or credit score;

3 (3) "consumer credit reporting agency" has the meaning given in  
4 AS 45.48.990, but does not include a person who issues reports

5 (A) on incidents of fraud or authorizations for the purpose of  
6 approving or processing negotiable instruments, electronic funds transfers, or  
7 similar methods of payments; or

8 (B) regarding account closures because of fraud, substantial  
9 overdrafts, automated teller machine abuse, or similar negative information  
10 regarding a consumer to inquiring banks or other financial institutions for use  
11 only in reviewing consumer requests for deposit accounts at the inquiring  
12 banks or financial institutions;

13 (4) "reseller of consumer information" means a person who assembles  
14 and merges information contained in the data bases of consumer credit reporting  
15 agencies and does not maintain a permanent data base of consumer information from  
16 which new consumer credit reports are produced;

17 (5) "security freeze" means a prohibition against a consumer credit  
18 reporting agency from releasing all or a part of a consumer's credit report or credit  
19 score without the express authorization of the consumer;

20 (6) "third party" means a person who is not

21 (A) the consumer who is the subject of the consumer's credit  
22 report or credit score; or

23 (B) the consumer credit reporting agency that is holding the  
24 consumer's credit report or credit score.

25 **Article 3. Protection of Social Security Number.**

26 **Sec. 45.48.400. Use of social security number.** (a) A person may not

27 (1) intentionally communicate or otherwise make available to the  
28 general public an individual's social security number;

29 (2) print an individual's social security number on a card required for  
30 the individual to access products or services provided by the person;

31 (3) require an individual to transmit the individual's social security

1 number over the Internet unless the Internet connection is secure or the social security  
2 number is encrypted;

3 (4) require an individual to use the individual's social security number  
4 to access an Internet site unless a password, a unique personal identification number,  
5 or another authentication device is also required to access the site; or

6 (5) print an individual's social security number on material that is  
7 mailed to the individual unless

8 (A) local, state, or federal law, including a regulation adopted  
9 under AS 45.48.470, expressly authorizes placement of the social security  
10 number on the material; or

11 (B) the social security number is included on an application or  
12 other form, including a document sent as a part of an application process or an  
13 enrollment process, sent by mail to establish, amend, or terminate an account, a  
14 contract, or a policy, or to confirm the accuracy of the social security number;  
15 however, a social security number allowed to be mailed under this  
16 subparagraph may not be printed, in whole or in part, on a postcard or other  
17 mailer that does not require an envelope, or in a manner that makes the social  
18 security number visible on the envelope or without the envelope's being  
19 opened.

20 (b) The prohibitions in (a) of this section do not apply if the person is  
21 engaging in the business of government and

22 (1) is authorized by law to request or collect the individual's social  
23 security number; or

24 (2) the request or collection of the individual's social security number  
25 is required for the performance of the person's duties or responsibilities as provided by  
26 law.

27 **Sec. 45.48.410. Request and collection.** (a) A person who does business in the  
28 state, including the business of government, may not request or collect from an  
29 individual the individual's social security number. This subsection does not prohibit a  
30 person from asking for another form of identification from the individual.

31 (b) The prohibition in (a) of this section does not apply

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(1) if the person is ~~expressly authorized~~ by local, state, or federal law, including a regulation adopted under AS 45.48.470, to demand proof of the individual's social security number, to request or collect the individual's social security number, or to submit the individual's social security number to the local, state, or federal government;

(2) if the person is engaging in the business of government and

(A) is authorized by law to request or collect the individual's social security number; or

(B) the request or collection of the individual's social security number is required for the performance of the person's duties or responsibilities as provided by law;

(3) to a financial institution that is regulated by 15 U.S.C. 6801 - 6827 (Gramm-Leach-Bliley Financial Modernization Act) if the financial institution requests or collects the individual's social security number to facilitate a transaction of the individual;

(4) to a communication to or from a consumer reporting agency; in this paragraph, "consumer reporting agency" has the meaning given in 15 U.S.C. 1681a (Fair Credit Reporting Act);

(5) if the request or collection is for a background check on the individual, debt collection, fraud prevention, medical treatment, law enforcement or other government purposes, or the individual's employment, including employment benefits; or

(6) if the request or collection does not have independent economic value, is incidental to a larger transaction or a larger anticipated transaction, and is necessary to verify the identity of the individual.

**Sec. 45.48.420. Sale, lease, loan, trade, or rental.** (a) A person may not sell, lease, loan, trade, or rent an individual's social security number to a third party.

(b) The prohibition in (a) of this section does not apply if the sale, lease, loan, trade, or rental is

(1) expressly authorized by local, state, or federal law, including a regulation adopted under AS 45.48.470;

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(2) part of a report prepared by a consumer credit reporting agency in response to a request by a person and the person submits the social security number as part of the request to the consumer credit reporting agency for the preparation of the report.

(c) Nothing in this section prevents a business from transferring social security numbers to another person if the transfer is part of the sale or other transfer of the business to the other person.

(d) A transfer of an individual's social security number for the sole purpose of identifying a person about whom a report or database check is ordered, received, or provided is not a sale, lease, loan, trade, or rental of a social security number under this section.

(e) A person who knowingly violates (a) of this section is guilty of a class A misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.020.

**Sec. 45.48.430. Disclosure.** (a) A person doing business, including the business of government, may not disclose an individual's social security number to a third party.

(b) The prohibition in (a) of this section does not apply if

(1) the disclosure is expressly authorized by local, state, or federal law, including a regulation adopted under AS 45.48.470;

(2) the person is engaging in the business of government and

(A) is authorized by law to disclose the individual's social security number; or

(B) the disclosure of the individual's social security number is required for the performance of the person's duties or responsibilities as provided by law;

(3) the third party is a financial institution that is regulated by 15 U.S.C. 6801 - 6827 (Gramm-Leach-Bliley Financial Modernization Act), and the disclosure is to facilitate a transaction of the individual;

(4) the disclosure is part of a report prepared by a consumer credit reporting agency in response to a request by a person and the person submits the social security number as part of the request to the consumer credit reporting agency for the

1 preparation of the report; or

2 (5) the disclosure is for a background check on the individual, debt  
3 collection, identity verification, fraud prevention, medical treatment, law enforcement  
4 or other government purposes, or the individual's employment, including employment  
5 benefits.

6 **Sec. 45.48.440. Interagency disclosure.** Notwithstanding the other provisions  
7 of AS 45.48.400 - 45.48.480, a state or local governmental agency may disclose an  
8 individual's social security number to another state or local governmental agency or to  
9 an agency of the federal government if the disclosure is required in order for the  
10 agency to carry out the agency's duties and responsibilities.

11 **Sec. 45.48.450. Exception for employees, agents, and independent**  
12 **contractors.** (a) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, a  
13 person may disclose an individual's social security number to an employee or agent of  
14 the person for a legitimate purpose established by and as directed by the person, but  
15 the employee or agent may not use the social security number for another purpose or  
16 make an unauthorized disclosure of the individual's personal information.

17 (b) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, and  
18 except as provided for an agent under (a) of this section, a person may disclose an  
19 individual's social security number to an independent contractor of the person to  
20 facilitate the purpose or transaction for which the individual initially provided the  
21 social security number to the person, but the independent contractor may not use the  
22 social security number for another purpose or make an unauthorized disclosure of the  
23 individual's personal information.

24 **Sec. 45.48.460. Employment-related exception.** The provisions of  
25 AS 45.48.400 - 45.48.480 may not be construed to restrict a person's use or exchange  
26 of an individual's social security number

27 (1) in the course of the administration of a claim, benefit, or procedure  
28 related to the individual's employment by the person, including the individual's  
29 termination from employment, retirement from employment, and injury suffered  
30 during the course of employment; or

31 (2) to check on an unemployment insurance claim of the individual.

1           **Sec. 45.48.470. Agency regulations.** If regulations are necessary in order for a  
2 state agency to carry out the state agency's duties and responsibilities, a state agency  
3 may adopt regulations under AS 44.62 (Administrative Procedure Act) to establish  
4 when the state agency or a person regulated by the state agency may

5                   (1) print an individual's social security number on material that is  
6 mailed to the individual;

7                   (2) demand proof from an individual of the individual's social security  
8 number, collect from an individual the individual's social security number, or submit  
9 an individual's social security number to a local, state, or federal agency;

10                   (3) ask an individual to provide the state agency with the individual's  
11 social security number;

12                   (4) disclose an individual's social security number to a third party;

13                   (5) sell, lease, loan, trade, or rent an individual's social security number  
14 to a third party.

15           **Sec. 45.48.480. Penalties.** (a) A person who knowingly violates AS 45.48.400  
16 - 45.48.430 is liable to the state for a civil penalty not to exceed \$3,000.

17                   (b) An individual may bring a civil action in court against a person who  
18 knowingly violates AS 45.48.400 - 45.48.430 and may recover actual economic  
19 damages, court costs allowed by the rules of court, and full reasonable attorney fees.

20                   (c) In this section, "knowingly" has the meaning given in AS 11.81.900.

#### 21                   **Article 4. Disposal of Records.**

22           **Sec. 45.48.500. Disposal of records.** (a) When disposing of records that  
23 contain personal information, a business and a governmental agency shall take all  
24 reasonable measures necessary to protect against unauthorized access to or use of the  
25 records.

26                   (b) Notwithstanding (a) of this section, if a business or governmental agency  
27 has otherwise complied with the provisions of AS 45.48.500 - 45.48.590 in the  
28 selection of a third party engaged in the business of record destruction, the business or  
29 governmental agency is not liable for the disposal of records under AS 45.48.500 -  
30 45.48.590 after the business or governmental agency has relinquished control of the  
31 records to the third party for the destruction of the records.

1 (c) A business or governmental agency is not liable for the disposal of records  
2 under AS 45.48.500 - 45.48.590 after the business or governmental agency has  
3 relinquished control of the records to the individual to whom the records pertain.

4 **Sec. 45.48.510. Measures to protect access.** The measures that may be taken  
5 to comply with AS 45.48.500 include

6 (1) implementing and monitoring compliance with policies and  
7 procedures that require the burning, pulverizing, or shredding of paper documents  
8 containing personal information so that the personal information cannot practicably be  
9 read or reconstructed;

10 (2) implementing and monitoring compliance with policies and  
11 procedures that require the destruction or erasure of electronic media and other  
12 nonpaper media containing personal information so that the personal information  
13 cannot practicably be read or reconstructed;

14 (3) after due diligence, entering into a written contract with a third  
15 party engaged in the business of record destruction to dispose of records containing  
16 personal information in a manner consistent with AS 45.48.500 - 45.48.590.

17 **Sec. 45.48.520. Due diligence.** In AS 45.48.510(3), due diligence ordinarily  
18 includes performing one or more of the following:

19 (1) reviewing an independent audit of the third party's operations and  
20 its compliance with AS 45.48.500 - 45.48.590;

21 (2) obtaining information about the third party from several references  
22 or other reliable sources and requiring that the third party be certified by a recognized  
23 trade association or similar organization with a reputation for high standards of quality  
24 review; or

25 (3) reviewing and evaluating the third party's information security  
26 policies and procedures, or taking other appropriate measures to determine the  
27 competency and integrity of the third party.

28 **Sec. 45.48.530. Policy and procedures.** A business or governmental agency  
29 shall adopt written policies and procedures that relate to the adequate destruction and  
30 proper disposal of records containing personal information and that are consistent with  
31 AS 45.48.500 - 45.48.590.

1           **Sec. 45.48.540. Exemptions.** (a) A business or a governmental agency is not  
2 required to comply with AS 45.48.500 - 45.48.530 if federal law requires that the  
3 business or governmental agency act in a way that does not comply with AS 45.48.500  
4 - 45.48.530.

5           (b) A business is not required to comply with AS 45.48.500 - 45.48.530 if

6                   (1) the business is subject to and in compliance with 15 U.S.C. 6801 -  
7 6827 (Gramm-Leach-Bliley Financial Modernization Act); or

8                   (2) the manner of the disposal of the records of the business is subject  
9 to 15 U.S.C. 1681w (Fair Credit Reporting Act) and the business is complying with 15  
10 U.S.C. 1861w.

11           **Sec. 45.48.550. Civil penalty.** (a) An individual, a business, or a governmental  
12 agency that knowingly violates AS 45.48.500 - 45.48.590 is liable to the state for a  
13 civil penalty not to exceed \$3,000.

14           (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

15           **Sec. 45.48.560. Court action.** An individual who is damaged by a violation of  
16 AS 45.48.500 - 45.48.590 may bring a civil action in court to enjoin further violations  
17 and to recover for the violation actual economic damages, court costs allowed by the  
18 rules of court, and full reasonable attorney fees.

19           **Sec. 45.48.590. Definitions.** In AS 45.48.500 - 45.48.590,

20                   (1) "business" means a person who conducts business in the state or a  
21 person who conducts business and maintains or otherwise possesses personal  
22 information on state residents; in this paragraph,

23                           (A) "conducts business" includes engaging in activities as a  
24 financial institution organized, chartered, or holding a license or authorization  
25 certificate under the laws of this state, another state, the United States, or  
26 another country;

27                           (B) "possesses" includes possession for the purpose of  
28 destruction;

29                   (2) "dispose" means

30                           (A) the discarding or abandonment of records containing  
31 personal information;

- 1 (B) the sale, donation, discarding, or transfer of  
2 (i) any medium, including computer equipment or  
3 computer media, that contains records of personal information;  
4 (ii) nonpaper media, other than that identified under (i)  
5 of this subparagraph, on which records of personal information are  
6 stored; and  
7 (iii) equipment for nonpaper storage of information;
- 8 (3) "governmental agency" means a state or local governmental  
9 agency, except for an agency of the judicial branch;
- 10 (4) "personal information" means  
11 (A) an individual's passport number, driver's license number,  
12 state identification number, bank account number, credit card number, debit  
13 card number, other payment card number, financial account information, or  
14 information from a financial application; or  
15 (B) a combination of an individual's  
16 (i) name; and  
17 (ii) medical information, insurance policy number,  
18 employment information, or employment history;
- 19 (5) "records" means material on which information that is written,  
20 drawn, spoken, visual, or electromagnetic is recorded or preserved, regardless of  
21 physical form or characteristics, but does not include publicly available information  
22 containing names, addresses, telephone numbers, or other information an individual  
23 has voluntarily consented to have publicly disseminated or listed.

24 **Article 5. Factual Declaration of Innocence after Identity Theft; Right to File Police**  
25 **Report Regarding Identity Theft.**

26 **Sec. 45.48.600. Factual declaration of innocence after identity theft.** (a) A  
27 victim of identity theft may petition the superior court for a determination that the  
28 victim is factually innocent of a crime if

- 29 (1) the perpetrator of the identity theft was arrested for, cited for, or  
30 convicted of the crime using the victim's identity;
- 31 (2) a criminal complaint was filed against the perpetrator of the

1 identity theft; and

2 (3) the victim's identity was mistakenly associated with a record of a  
3 conviction for a crime.

4 (b) In addition to a petition by a victim under (a) of this section, the  
5 department may petition the superior court for a determination under (a) of this  
6 section, or the superior court may, on its own motion, make a determination under (a)  
7 of this section.

8 **Sec. 45.48.610. Basis for determination.** A determination of factual  
9 innocence under AS 45.48.600 may be heard and made on declarations, affidavits,  
10 police reports, or other material, relevant, and reliable information submitted by the  
11 parties or ordered to be made a part of the record by the court.

12 **Sec. 45.48.620. Criteria for determination; court order.** (a) A court may  
13 determine that a petitioner under AS 45.48.600 is factually innocent of a crime if the  
14 court finds beyond a reasonable doubt that

15 (1) the petitioner is a victim of identity theft;

16 (2) the petitioner did not commit the offense for which the perpetrator  
17 of the identity theft was arrested, cited, or convicted;

18 (3) the petitioner filed a criminal complaint against the perpetrator of  
19 the identity theft; and

20 (4) the petitioner's identity was mistakenly associated with a record of  
21 conviction for the crime.

22 (b) If a court finds under this section that the victim is factually innocent of a  
23 crime, the court shall issue an order indicating this determination of factual innocence  
24 and shall provide the victim with a copy of the order.

25 **Sec. 45.48.630. Orders regarding records.** After a court issues an order under  
26 AS 45.48.620, the court may order the name and associated personal information of  
27 the victim of identity theft that is contained in the files, indexes, and other records of  
28 the court that are accessible by the public labeled to show that the name and personal  
29 information of the victim of identity theft is incorrect.

30 **Sec. 45.48.640. Vacation of determination.** A court that has issued an order  
31 under AS 45.48.620 may, at any time, vacate the order if the petition, or any

1 information submitted in support of the petition, is found to contain a material  
2 misrepresentation, omission, or false information.

3 **Sec. 45.48.650. Court form.** The supreme court of the state may develop a  
4 form to be used for the order under AS 45.48.620.

5 **Sec. 45.48.660. Data base.** The department may establish and maintain a data  
6 base of individuals who have been victims of identity theft and who have received an  
7 order under AS 45.48.620. The department shall provide a victim or the victim's  
8 authorized representative access to a data base established under this section to  
9 establish that the individual has been a victim of identity theft. Access to the a data  
10 base established under this section is limited to criminal justice agencies, victims of  
11 identity theft, and individuals and agencies authorized by the victims.

12 **Sec. 45.48.670. Toll-free telephone number.** The department may establish  
13 and maintain a toll-free telephone number to provide access to information in a data  
14 base established under AS 45.48.660.

15 **Sec. 45.48.680. Right to file police report regarding identity theft.** (a) Even  
16 if the local law enforcement agency does not have jurisdiction over the theft of an  
17 individual's identity, if an individual who has learned or reasonably suspects the  
18 individual has been the victim of identity theft contacts, for the purpose of filing a  
19 complaint, a local law enforcement agency that has jurisdiction over the individual's  
20 actual place of residence, the local law enforcement agency shall make a report of the  
21 matter and provide the individual with a copy of the report. The local law enforcement  
22 agency may refer the matter to a law enforcement agency in a different jurisdiction.

23 (b) This section is not intended to interfere with the discretion of a local law  
24 enforcement agency to allocate its resources to the investigation of crime. A local law  
25 enforcement agency is not required to count a complaint filed under (a) of this section  
26 as an open case for purposes that include compiling statistics on its open cases.

27 **Sec. 45.48.690. Definitions.** In AS 45.48.600 - 45.48.690,

- 28 (1) "crime" has the meaning given in AS 11.81.900;  
29 (2) "department" means the Department of Law;  
30 (3) "perpetrator" means the person who perpetrated the theft of an  
31 individual's identity;

1 (4) "victim" means an individual who is the victim of identity theft.

2 **Article 6. Truncation of Card Information.**

3 **Sec. 45.48.750. Truncation of card information.** (a) A person who accepts  
4 credit cards or debit cards for the transaction of business may not print more than the  
5 last four digits of the card number or the expiration date on any receipt or other  
6 physical record of the transaction provided at the point of the sale or transaction.

7 (b) This section applies only to receipts that are electronically printed and does  
8 not apply to transactions in which the sole means of recording a credit card or debit  
9 card account number is by handwriting or by an imprint or copy of the card.

10 (c) A person may not sell a device that electronically prints more than the last  
11 four digits of a credit card or debit card on a consumer receipt for a business  
12 transaction or on a copy retained by a business person for a business transaction.

13 (d) An individual may bring a civil action in court against a person who  
14 knowingly violates (a) of this section and may recover actual economic damages,  
15 court costs allowed by the rules of court, and full reasonable attorney fees.

16 (e) A person who knowingly violates this section is liable to the state for a  
17 civil penalty not to exceed \$3,000.

18 (f) In this section,

19 (1) "credit" means the right granted by a creditor to a debtor to defer  
20 payment of debt, to incur debts and defer payment of the debt, or to purchase property  
21 or services and defer payment of the purchase; in this paragraph, "creditor" means a  
22 person who regularly extends, renews, or continues credit, a person who regularly  
23 arranges for the extension, renewal, or continuation of credit, or an assignee of an  
24 original creditor who participates in the decision to extend, renew, or continue credit;

25 (2) "credit card" means a card, plate, coupon book, or other credit  
26 device existing for the purpose of obtaining money, property, labor, or services on  
27 credit;

28 (3) "debit card" means a card issued by a financial institution to a  
29 consumer for use in initiating an electronic fund transfer from the account of the  
30 consumer at the financial institution for the purpose of transferring money between  
31 accounts or obtaining money, property, labor, or services;

1 (4) "knowingly" has the meaning given in AS 11.81.900.

2 Article 7. General Provisions.

3 Sec. 45.48.990. Definitions. In this chapter, unless the context indicates  
4 otherwise,

5 (1) "consumer" means an individual;

6 (2) "consumer credit reporting agency" means a person who, for  
7 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or  
8 in part in the practice of assembling or evaluating consumer credit information or  
9 other information on consumers for the purpose of furnishing credit reports to third  
10 parties;

11 (3) "credit report" means a written, oral, or other communication of  
12 information by a consumer credit reporting agency bearing on a consumer's credit  
13 worthiness, credit standing, credit capacity, character, general reputation, personal  
14 characteristics, or mode of living if the communication is used or expected to be used  
15 or collected in whole or in part to serve as a factor in establishing the consumer's  
16 eligibility for

17 (A) credit or insurance to be used primarily for personal,  
18 family, or household purposes;

19 (B) employment purposes; or

20 (C) any other permissible purpose authorized under section 15  
21 U.S.C. 1681b;

22 (4) "identity theft" means the theft of the identity of an individual;

23 (5) "information system" means any information system, including a  
24 system consisting of digital data bases and a system consisting of pieces of paper;

25 (6) "person" has the meaning given in AS 01.10.060 and includes a  
26 state or local governmental agency, except for an agency of the judicial branch;

27 (7) "state resident" means an individual who satisfies the residency  
28 requirements under AS 01.10.055.

29 Sec. 45.48.995. Short title. This chapter may be cited as the Alaska Personal  
30 Information Protection Act.

31 \* Sec. 4. AS 45.50.471(b) is amended by adding a new paragraph to read:

1 (53) an information collector, other than a governmental agency,  
2 violating AS 45.48.010 - 45.48.090 (breach of security involving personal  
3 information); in this paragraph,

4 (A) "governmental agency" has the meaning given in  
5 AS 45.48.090;

6 (B) "information collector" has the meaning given in  
7 AS 45.48.090.

8 ~~\* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to~~  
9 read:

10 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 45.48.640, enacted by sec. 3 of  
11 this Act, has the effect of changing Rule 60(b), Alaska Rules of Civil Procedure, by allowing  
12 a court to vacate an order on its own motion and at any time and by establishing a specific  
13 criterion for vacating the order under AS 45.48.640.

14 (b) AS 45.48.200(a), 45.48.480(b), 45.48.560, and 45.48.750(d), enacted by sec. 3 of  
15 this Act, have the effect of changing Rule 82, Alaska Rules of Civil Procedure, by changing  
16 the criteria for determining the amount of attorney fees to be awarded to a party in an action  
17 under AS 45.48.200(a), 45.48.480(b), 45.48.560, or 45.48.750(d).

18 ~~\* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to~~  
19 read:

20 **TRANSITION: REGULATIONS.** A state agency may proceed to adopt regulations  
21 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative  
22 Procedure Act), but not before the effective date of the law implemented by the regulation.

23 ~~\* Sec. 7. AS 45.48.470, enacted by sec. 3 of this Act, takes effect immediately under~~  
24 ~~AS 01.10.070(c).~~

25 ~~\* Sec. 8. Section 6 of this Act takes effect immediately under AS 01.10.070(c).~~

26 ~~\* Sec. 9. Except as provided by secs. 7 and 8 of this Act, this Act takes effect January 1,~~  
27 ~~2009.~~

# ALASKA STATE HOUSE OF REPRESENTATIVES

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Room 204**

## REPRESENTATIVE JOHN COGHILL

### SECTIONAL

Senate CS for CS for House Bill 65  
25-LS0311\N 3/17/08

**Section 45.48.100 Security freeze authorized.**

Page 7, line 5

Deleted [all or a part of] to clearly reflect that all of a consumer's credit information is frozen.**Section 45.48.210 Exemptions.**

Page 15, line 17

Deleted [consumer credit reporting agency] insert person wording correction.**Section 45.48.290 Definitions**

Page 16, line 17

Deleted [all or a part of] to clearly reflect that all of a consumer's credit information is frozen.

**Section 45.48.400 Use of social security number.**

Page 17, lines 21 and 22

Deleted [request or collect] insert communicate or otherwise make available to the general public

Page 17, line 23

Deleted [the request or collection of] insert communicating or otherwise making available

These two changes were requested by DNR to correctly word the exemption for personnel in the recording district when receiving or distributing documents for recording that may contain social security numbers.

**Section 45.48.410 Request and collection**

Page 18, lines 11 – 15 Inserted new subsection (3) and (4)

**Section 45.48.420 Sale, lease, loan, trade, or rental**

Page 18, lines 29-31 Inserted new subsection (2)

Page 19, lines 1 and 2 Inserted new subsection (3)

**Section 45.48.430 Disclosure**

Page 19, line 31 and Page 20, line 1 – Inserted new subsection (4)

**Section 45.48.990 Definitions**

Page 28, lines 26 – 28 Inserted definitions for FCRA and GLBA

25-LS0311\N

Bannister

3/17/08

**SENATE CS FOR CS FOR HOUSE BILL NO. 65( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

BY

Offered:

Referred:

**Sponsor(s): REPRESENTATIVES COGHILL AND GARA, Hawker, Lynn, Samuels, Fairclough, Ramras, Kawasaki, Kerttala, Gatto, Neuman, Olson, Dahlstrom, Gardner, Johnson, Wilson, Guttenberg, Holmes, Nelson, Crawford, LeDoux, Keller, Doogaa, Bach, Roses, Cissna**

**SENATORS Therriault, Wilken**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to breaches of security involving personal information, credit report**  
2 **and credit score security freezes, protection of social security numbers, care of records,**  
3 **disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of**  
4 **the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil**  
5 **Procedure; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 **\* Section 1. AS 40.21.110 is amended to read:**

8 **Sec. 40.21.110. Care of records. Except for public records lawfully in the**  
9 **possession of a person other than the state, public records of existing or defunct**  
10 **agencies of the state, territorial, and Russian governments in Alaska are the property**  
11 **of the state and shall be created, maintained, preserved, stored, transferred, destroyed**  
12 **or disposed of, and otherwise managed in accordance with the provisions of this**  
13 **chapter and AS 45.48.500 - 45.48.530. Records shall be delivered by outgoing**  
14 **officials and employees to their successors, and may not be removed, destroyed or**

1 disposed of, except as provided in this chapter and AS 45.48.500 - 45.48.530.

2 \* Sec. 2. AS 44.64.030(a) is amended by adding a new paragraph to read:

3 (40) AS 45.48.080(c) (breach of security involving personal  
4 information).

5 \* Sec. 3. AS 45 is amended by adding a new chapter to read:

6 **Chapter 48. Personal Information Protection Act.**

7 **Article 1. Breach of Security Involving Personal Information.**

8 **Sec. 45.48.010. Disclosure of breach of security.** (a) If a covered person owns  
9 or licenses personal information in any form that includes personal information on a  
10 state resident, and a breach of the security of the information system that contains  
11 personal information occurs, the covered person shall, after discovering or being  
12 notified of the breach, disclose the breach to each state resident whose personal  
13 information was subject to the breach.

14 (b) An information collector shall make the disclosure required by (a) of this  
15 section in the most expeditious time possible and without unreasonable delay, except  
16 as provided in AS 45.48.020 and as necessary to determine the scope of the breach and  
17 restore the reasonable integrity of the information system.

18 (c) Notwithstanding (a) of this section, disclosure is not required if, after an  
19 appropriate investigation or after consultation with relevant federal, state, or local  
20 agencies responsible for law enforcement, the covered person determines that there is  
21 not a reasonable likelihood that harm to the consumers whose personal information  
22 has been acquired has resulted or will result from the breach. The determination shall  
23 be documented in writing and the documentation shall be maintained for five years.

24 **Sec. 45.48.020. Allowable delay in notification.** An information collector  
25 may delay disclosing the breach under AS 45.48.010 if an appropriate law  
26 enforcement agency determines that disclosing the breach will interfere with a  
27 criminal investigation. However, the information collector shall disclose the breach to  
28 the state resident in the most expeditious time possible and without unreasonable delay  
29 after the law enforcement agency informs the information collector in writing that  
30 disclosure of the breach will no longer interfere with the investigation.

31 **Sec. 45.48.030. Methods of notice.** An information collector shall make the

1 disclosure required by AS 45.48.010

2 (1) by a written document sent to the most recent address the  
3 information collector has for the state resident;

4 (2) by electronic means if making the disclosure by the electronic  
5 means is consistent with the provisions regarding electronic records and signatures  
6 required for notices legally required to be in writing under 15 U.S.C. 7001 et seq.  
7 (Electronic Signatures in Global and National Commerce Act); or

8 (3) if the information collector demonstrates that the cost of providing  
9 notice would exceed \$150,000, that the affected class of state residents to be notified  
10 exceeds 300,000, or that the information collector does not have sufficient contact  
11 information to provide notice, by

12 (A) electronic mail if the information collector has an  
13 electronic mail address for the state resident;

14 (B) conspicuously posting the disclosure on the Internet  
15 website of the information collector if the information collector maintains an  
16 Internet site; and

17 (C) providing a notice to major statewide media.

18 **Sec. 45.48.040. Notification of certain other agencies.** (a) If an information  
19 collector is required by AS 45.48.010 to notify more than 1,000 state residents of a  
20 breach, the information collector shall also notify without unreasonable delay all  
21 consumer credit reporting agencies that compile and maintain files on consumers on a  
22 nationwide basis and provide the agencies with the timing, distribution, and content of  
23 the notices.

24 (b) This section may not be construed to require the information collector to  
25 provide the consumer reporting agencies identified under (a) of this section with the  
26 names or other personal information of the state residents whose personal information  
27 was subject to the breach.

28 (c) This section does not apply to an information collector who is subject to  
29 the Gramm-Leach-Bliley Financial Modernization Act.

30 (d) In this section, "consumer reporting agency that compiles and maintains  
31 files on consumers on a nationwide basis" has the meaning given in 15 U.S.C.

1 1681a(p).

2 **Sec. 45.48.050. Exception for employees and agents.** In AS 45.48.010 -  
3 45.48.090, the good faith acquisition of personal information by an employee or agent  
4 of an information collector for a legitimate purpose of the information collector is not  
5 a breach of the security of the information system if the employee or agent does not  
6 use the personal information for a purpose unrelated to a legitimate purpose of the  
7 information collector and does not make further unauthorized disclosure of the  
8 personal information.

9 **Sec. 45.48.060. Waivers.** A waiver of AS 45.48.010 - 45.48.090 is void and  
10 unenforceable.

11 **Sec. 45.48.070. Treatment of certain breaches.** (a) If a breach of the security  
12 of the information system containing personal information on a state resident that is  
13 maintained by an information recipient occurs, the information recipient is not  
14 required to comply with AS 45.48.010 - 45.48.030. However, immediately after the  
15 information recipient discovers the breach, the information recipient shall notify the  
16 information distributor who owns the personal information or who licensed the use of  
17 the personal information to the information recipient about the breach and cooperate  
18 with the information distributor as necessary to allow the information distributor to  
19 comply with (b) of this section. In this subsection, "cooperate" means sharing with the  
20 information distributor information relevant to the breach, except for confidential  
21 business information or trade secrets.

22 (b) If an information recipient notifies an information distributor of a breach  
23 under (a) of this section, the information distributor shall comply with AS 45.48.010 -  
24 45.48.030 as if the breach occurred to the information system maintained by the  
25 information distributor.

26 **Sec. 45.48.080. Violations.** (a) If an information collector who is a  
27 governmental agency violates AS 45.48.010 - 45.48.090 with regard to the personal  
28 information of a state resident, the information collector

29 (1) is liable to the state for a civil penalty of up to \$500 for each state  
30 resident who was not notified under AS 45.48.010 - 45.48.090, but the total civil  
31 penalty may not exceed \$50,000; and

1 (2) may be enjoined from further violations.

2 (b) If an information collector who is not a governmental agency violates  
3 AS 45.48.010 - 45.48.090 with regard to the personal information of a state resident,  
4 the violation is an unfair or deceptive act or practice under AS 45.50.471 - 45.50.561.  
5 However,

6 (1) the information collector is not subject to the civil penalties  
7 imposed under AS 45.50.551 but is liable to the state for a civil penalty of up to \$500  
8 for each state resident who was not notified under AS 45.48.010 - 45.48.090, except  
9 that the total civil penalty may not exceed \$50,000; and

10 (2) damages that may be awarded against the information collector  
11 under

12 (A) AS 45.50.531 are limited to actual economic damages that  
13 do not exceed \$500; and

14 (B) AS 45.50.537 are limited to actual economic damages.

15 (c) The Department of Administration may enforce (a) of this section against a  
16 governmental agency. The procedure for review of an order or action of the  
17 department under this subsection is the same as the procedure provided by AS 44.62  
18 (Administrative Procedure Act), except that the office of administrative hearings  
19 (AS 44.64.010) shall conduct the hearings in contested cases and the decision may be  
20 appealed under AS 44.64.030(c).

21 **Sec. 45.48.090. Definitions.** In AS 45.48.010 - 45.48.090,

22 (1) "breach of the security" means unauthorized acquisition, or  
23 reasonable belief of unauthorized acquisition, of personal information that  
24 compromises the security, confidentiality, or integrity of the personal information  
25 maintained by the information collector; in this paragraph, "acquisition" includes  
26 acquisition by

27 (A) photocopying, facsimile, or other paper-based method;

28 (B) a device, including a computer, that can read, write, or  
29 store information that is represented in numerical form; or

30 (C) a method not identified by (A) or (B) of this paragraph;

31 (2) "covered person" means a

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- (A) person doing business;
- (B) a governmental agency; or
- (C) a person with more than 10 employees;

(3) "governmental agency" means a state or local governmental agency, except for an agency of the judicial branch;

(4) "information collector" means a covered person who owns or licenses personal information in any form if the personal information includes personal information on a state resident;

(5) "information distributor" means a person who is an information collector and who owns or licenses personal information to an information recipient;

(6) "information recipient" means a person who is an information collector but who does not own or have the right to license to another information collector the personal information received by the person from an information distributor;

(7) "personal information" means information in any form on an individual that is not encrypted or redacted, or is encrypted and the encryption key has been accessed or acquired, and that consists of a combination of

(A) an individual's name; in this subparagraph, "individual's name" means a combination of an individual's

(i) first name or first initial; and

(ii) last name; and

(B) one or more of the following information elements:

(i) the individual's social security number;

(ii) the individual's driver's license number or state identification card number;

(iii) except as provided in (iv) of this subparagraph, the individual's account number, credit card number, or debit card number;

(iv) if an account can only be accessed with a personal code, the number in (iii) of this subparagraph and the personal code; in this sub-subparagraph, "personal code" means a security code, an access code, a personal identification number, or a password;

1 (v) passwords, personal identification numbers, or other  
2 access codes for financial accounts.

3 **Article 2. Credit Report and Credit Score Security Freeze.**

4 ~~Sec. 45.48.109. Security freeze authorized. A consumer may prohibit a~~  
5 ~~consumer credit reporting agency from releasing the consumer's credit report or credit~~  
6 ~~score without the express authorization of the consumer by placing a security freeze~~  
7 ~~on the consumer's credit report.~~

8 **Sec. 45.48.110. Placement of security freeze.** (a) To place a security freeze, a  
9 consumer shall make the request to the consumer credit reporting agency

10 (1) by mail to the address designated by the consumer credit reporting  
11 agency to receive security freeze requests; or

12 (2) as allowed by (b) of this section.

13 (b) A consumer may make a request under (a) of this section by telephone or  
14 by fax, the Internet, or other electronic media if the consumer credit reporting agency  
15 has developed procedures for using the telephone or an electronic medium to receive  
16 and process the request in an expedited manner.

17 (c) A consumer credit reporting agency shall place a security freeze within  
18 five business days after receiving a request under (a) or (b) of this section and proper  
19 identification from the consumer.

20 **Sec. 45.48.120. Confirmation of security freeze.** (a) Within 10 business days  
21 after a consumer makes the request under AS 45.48.110, a consumer credit reporting  
22 agency shall send a written confirmation of the placement of the security freeze to the  
23 consumer. The confirmation must also inform the consumer that the consumer credit  
24 reporting agency may charge, as allowed by AS 45.48.160, a fee for third-party access  
25 during the security freeze.

26 (b) At the same time that the consumer credit reporting agency sends a  
27 confirmation under (a) of this section, the consumer credit reporting agency shall  
28 provide the consumer with a unique personal identification number, password, or  
29 similar device to be used by the consumer when the consumer authorizes the release of  
30 the consumer's credit report or credit score under AS 45.48.130.

31 **Sec. 45.48.130. Access and actions during security freeze.** (a) While a

1 security freeze is in place, a consumer credit reporting agency shall allow a third party  
2 access to a consumer's credit report or credit score if the consumer requests that the  
3 consumer credit reporting agency allow the access.

4 (b) To make a request under (a) of this section, the consumer shall contact the  
5 consumer credit reporting agency by mail at the address designated by the consumer  
6 credit reporting agency to receive security freeze requests or as allowed by (c) of this  
7 section, authorize the consumer credit reporting agency to allow the access, and  
8 provide the consumer credit reporting agency with

9 (1) proper identification to verify the consumer's identity;

10 (2) the unique personal identification number, password, or similar  
11 device provided under AS 45.48.120(b); and

12 (3) the proper information necessary to identify the third party to  
13 whom the consumer credit reporting agency may allow the access or the time period  
14 during which the consumer credit reporting agency may allow the access to third  
15 parties who request the access.

16 (c) In addition to making the request by mail, a consumer may make a request  
17 under (a) of this section by telephone or by fax, the Internet, or other electronic media  
18 if the consumer credit reporting agency has developed procedures for using the  
19 telephone or an electronic medium to receive and process the request in an expedited  
20 manner.

21 (d) A consumer credit reporting agency that receives a request from a  
22 consumer under (b) or (c) of this section shall comply with the request within 15  
23 minutes after receiving the request by telephone or by an electronic medium or within  
24 three business days after receiving the request by mail.

25 (e) If a security freeze is in place, a consumer credit reporting agency may not  
26 release the credit report or credit score to a third party without the prior express  
27 authorization of the consumer.

28 (f) If a security freeze is in place on a consumer's credit report and credit score  
29 and if a third party applies to a consumer credit reporting agency to provide the third  
30 party with access to the consumer's credit report or credit score, the consumer credit  
31 reporting agency and, except as provided for insurers under (g) of this section, the

1 third party may treat the third party's application as incomplete unless the consumer  
2 authorizes the access under (a) of this section.

3 (g) If an insurer requests access to a consumer's credit report and credit score  
4 on which a security freeze is in place, unless the consumer authorizes access under (a)  
5 of this section, the insurer may, notwithstanding AS 21.36.460,

6 (1) treat the consumer's application as incomplete;

7 (2) decline the consumer's application if the consumer does not lift the  
8 security freeze for the insurer after a request by the insurer or the insurer's agent;

9 (3) treat the consumer as if the consumer has a neutral credit rating;

10 (4) exclude the use of credit information as a factor and use only  
11 underwriting criteria; or

12 (5) treat the consumer in a manner that is otherwise approved by the  
13 division of insurance.

14 (h) If a security freeze is in place, a consumer credit reporting agency may not  
15 change the consumer's official information in the consumer's credit report and credit  
16 score without sending a written statement of the change to the consumer within 30  
17 days after the change is made. A consumer credit reporting agency is not required to  
18 send a written statement if the consumer credit reporting agency makes a technical  
19 change in the consumer's official information. If a consumer credit reporting agency  
20 makes a change, other than a technical change, in a consumer's address, the consumer  
21 credit reporting agency shall send the written statement to the consumer at both the  
22 new address and the former address. In this subsection,

23 (1) "official information" means name, birth date, social security  
24 number, and address;

25 (2) "technical change" means changing spelling, transposing numbers  
26 or letters, abbreviating a word, or spelling out an abbreviation.

27 (i) This section is not intended to prevent a consumer credit reporting agency  
28 from advising a third party that requests access to a consumer's credit report or credit  
29 score that a security freeze is in effect.

30 (j) The procedures used by a consumer credit reporting agency for  
31 implementing the provisions of this section may include the use of telephone,

1 facsimile, or electronic means if making the disclosure by the electronic means is  
2 consistent with the provisions regarding electronic records and signatures required for  
3 notices legally required to be in writing under 15 U.S.C. 7001 et seq. (Electronic  
4 Signatures in Global and National Commerce Act).

5 **Sec. 45.48.149. Removal of security freeze.** (a) Except as provided by  
6 AS 45.48.130, a consumer credit reporting agency may not remove a security freeze  
7 unless

8 (1) the consumer requests that the consumer credit reporting agency  
9 remove the security freeze under (b) of this section; or

10 (2) the consumer made a material misrepresentation of fact to the  
11 consumer credit reporting agency when the consumer requested the security freeze  
12 under AS 45.48.110; if a consumer credit reporting agency intends to remove a  
13 security freeze on a consumer's credit report under this paragraph, the consumer credit  
14 reporting agency shall notify the consumer in writing before removing the security  
15 freeze.

16 (b) A consumer credit reporting agency shall remove a security freeze within  
17 three days after receiving a request for removal from the consumer who requested the  
18 security freeze.

19 (c) To make a request under (b) of this section, the consumer shall contact the  
20 consumer credit reporting agency by mail or as allowed by (d) of this section,  
21 authorize the consumer credit reporting agency to remove the security freeze, and  
22 provide the consumer credit reporting agency with

23 (1) proper identification to verify the consumer's identity; and

24 (2) the unique personal identification number, password, or similar  
25 device provided under AS 45.48.120(b).

26 (d) In addition to mail, a consumer may make a request under (b) of this  
27 section by telephone or by fax, the Internet, or other electronic media if the consumer  
28 credit reporting agency has developed procedures for using the telephone or an  
29 electronic medium to receive and process the request in an expedited manner.

30 **Sec. 45.48.150. Prohibition.** When dealing with a third party, a consumer  
31 credit reporting agency may not suggest, state, or imply that a consumer's security

1 freeze reflects a negative credit score, history, report, or rating.

2 **Sec. 45.48.160. Charges.** (a) Except as provided by (b), (c), or (d) of this  
3 section, a consumer credit reporting agency may not charge a consumer to place or  
4 remove a security freeze, to provide access under AS 45.48.130, or to take any other  
5 action, including the issuance of a personal identification number, password, or similar  
6 device under AS 45.48.120, that is related to the placement of, removal of, or allowing  
7 access to a credit report or credit score on which a security freeze has been placed.

8 (b) A consumer credit reporting agency may charge a consumer \$5 for placing  
9 a security freeze.

10 (c) If a consumer makes more than two access requests during a calendar year,  
11 a consumer credit reporting agency may charge the consumer \$2 for each additional  
12 access request made by the consumer during that calendar year. In this subsection,  
13 "access request" means a request made by the consumer under AS 45.48.130 to allow  
14 third-party access to the consumer's credit report or credit score on which a security  
15 freeze has been placed.

16 (d) If a consumer fails to retain a personal identification number, password, or  
17 similar device issued under AS 45.48.120, a consumer credit reporting agency may  
18 charge the consumer up to \$5 for each time after the first time that the consumer credit  
19 reporting agency issues the consumer another personal identification number,  
20 password, or similar device because the consumer failed to retain the personal  
21 identification number, password, or similar device.

22 (e) A consumer credit reporting agency may not charge a consumer a fee  
23 under (b) or (c) of this section if the consumer has been a victim of identity theft and  
24 provides the consumer credit reporting agency with a complaint filed by the consumer  
25 with a law enforcement agency.

26 **Sec. 45.48.170. Notice of rights.** When a consumer credit reporting agency is  
27 required to give a consumer a summary of rights under 15 U.S.C. 1681g of the Fair  
28 Credit Reporting Act, a consumer credit reporting agency shall also give the consumer  
29 the following notice:

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

31 You may obtain a security freeze on your credit report and

1 credit score for \$5 to protect your privacy and ensure that credit is not  
2 granted in your name without your knowledge. You may not have to  
3 pay the \$5 charge if you are a victim of identity theft. You have a right  
4 to place a "security freeze" on your credit report and credit score under  
5 state law (AS 45.48.100 - 45.48.290).

6 The security freeze will prohibit a consumer credit reporting  
7 agency from releasing your credit score and any information in your  
8 credit report without your express authorization or approval.

9 The security freeze is designed to prevent credit, loans, and  
10 other services from being approved in your name without your consent.  
11 However, you should be aware that using a security freeze to take  
12 control over who gets access to the personal and financial information  
13 in your credit report and credit score may delay, interfere with, or  
14 prohibit the timely approval of any subsequent request or application  
15 you make regarding a new loan, credit, a mortgage, a governmental  
16 service, a governmental payment, a cellular telephone, a utility, an  
17 Internet credit card application, an extension of credit at point of sale,  
18 and other items and services.

19 When you place a security freeze on your credit report and  
20 credit score, within 10 business days you will be provided a personal  
21 identification number, password, or similar device to use if you choose  
22 to remove the freeze on your credit report and credit score or to  
23 temporarily authorize the release of your credit report and credit score  
24 to a specific third party or specific third parties or for a specific period  
25 of time after the freeze is in place. To provide that authorization, you  
26 must contact the consumer credit reporting agency and provide all of  
27 the following:

- 28 (1) proper identification to verify your identity;  
29 (2) the personal identification number, password, or  
30 similar device provided by the consumer credit reporting agency;  
31 (3) proper information necessary to identify the third

1 party or third parties who are authorized to receive the credit report and  
2 credit score or the specific period of time for which the credit report  
3 and credit score are to be available to third parties.

4 A consumer credit reporting agency that receives your request  
5 to temporarily lift a freeze on a credit report and credit score is required  
6 to comply with the request within 15 minutes after receiving your  
7 request if you make the request by telephone, or an electronic method if  
8 the agency provides an electronic method, or within three business days  
9 after receiving your request if you make the request by mail. After the  
10 first two requests in a year, a consumer credit reporting agency may  
11 charge you \$2 to temporarily lift the freeze.

12 A security freeze does not apply to circumstances where you  
13 have an existing account relationship and a copy of your credit report  
14 and credit score are requested by your existing creditor or its agents or  
15 affiliates for certain types of account review, collection, fraud control,  
16 or similar activities.

17 If you are actively seeking credit, you should understand that  
18 the procedures involved in lifting a security freeze may slow your own  
19 applications for credit. You should plan ahead and lift a freeze, either  
20 completely if you are shopping around, or specifically for a certain  
21 creditor, days before applying for new credit.

22 You have a right to bring a civil action against someone who  
23 violates your rights under these laws on security freezes. The action can  
24 be brought against a consumer credit reporting agency.

25 **Sec. 45.48.180. Notification after violation.** If a consumer credit reporting  
26 agency violates a security freeze by releasing a consumer's credit report or credit  
27 score, the consumer credit reporting agency shall notify the consumer within five  
28 business days after discovering or being notified of the release, and the information in  
29 the notice must include an identification of the information released and of the third  
30 party who received the information.

31 **Sec. 45.48.190. Resellers.** A consumer credit reporting agency that acts as a

1 reseller of consumer information shall honor a security freeze placed on a consumer's  
2 credit report and credit score by another consumer credit reporting agency.

3 **Sec. 45.48.200. Violations and penalties.** (a) A consumer who suffers  
4 damages as a result of a person's violation of AS 45.48.100 - 45.48.290 may bring an  
5 action in court against the person and recover, in the case of a violation where the  
6 person acted

7 (1) negligently, actual economic damages, court costs allowed by the  
8 rules of court, and full reasonable attorney fees;

9 (2) knowingly,

10 (A) damages as described in (1) of this subsection;

11 (B) punitive damages that are not less than \$100 nor more than  
12 \$5,000 for each violation as the court determines to be appropriate; and

13 (C) other relief that the court determines to be appropriate.

14 (b) A consumer may bring an action in court against a person for a violation or  
15 threatened violation of AS 45.48.100 - 45.48.290 for injunctive relief, whether or  
16 not the consumer seeks another remedy under this section.

17 (c) Notwithstanding (a)(2) of this section, a person who knowingly violates  
18 AS 45.48.100 - 45.48.290 is liable in a class action for an amount that the court  
19 allows. When determining the amount of an award in a class action under this  
20 subsection, the court shall consider, among the relevant factors, the amount of any  
21 actual damages awarded, the frequency of the violations, the resources of the violator,  
22 and the number of consumers adversely affected.

23 (d) In this section, "knowingly" has the meaning given in AS 11.81.900.

24 **Sec. 45.48.210. Exemptions.** (a) The provisions of AS 45.48.100 - 45.48.290  
25 do not apply to the use of a credit report by

26 (1) a person, the person's subsidiary, affiliate, or agent, or the person's  
27 assignee with whom a consumer has or, before the assignment, had an account,  
28 contract, or debtor-creditor relationship if the purpose of the use is to review the  
29 consumer's account or to collect a financial obligation owing on the account, contract,  
30 or debt;

31 (2) a subsidiary, an affiliate, an agent, an assignee, or a prospective

1 assignee of a person to whom access has been granted under AS 45.48.130 if the  
2 purpose of the use is to facilitate the extension of credit or another permissible use;

3 (3) a person acting under a court order, warrant, or subpoena;

4 (4) an agency of a state or municipality that administers a program for  
5 establishing and enforcing child support obligations;

6 (5) the Department of Health and Social Services, its agents, or its  
7 assigns when investigating fraud;

8 (6) the Department of Revenue, its agents, or its assigns when  
9 investigating or collecting delinquent taxes or unpaid court orders or when  
10 implementing its other statutory responsibilities;

11 (7) a person if the purpose of the use is prescreening allowed under 15  
12 U.S.C. 1681b(c) of the Fair Credit Reporting Act;

13 (8) a person administering a credit file monitoring subscription service  
14 to which the consumer has subscribed;

15 (9) a person providing a consumer with a copy of the consumer's credit  
16 report or credit score at the consumer's request; or

17 (10) a ~~person~~ if the data base or file of the consumer credit reporting  
18 agency consists entirely of information concerning and used solely for one or more of  
19 the following purposes:

20 (A) criminal record information;

21 (B) personal loss history information;

22 (C) fraud prevention or detection;

23 (D) tenant screening; or

24 (E) employment screening.

25 (b) Except as provided by AS 45.48.190, the provisions of AS 45.48.100 -  
26 45.48.290 do not apply to a person when acting only as a reseller of consumer  
27 information.

28 **Sec. 45.48.290. Definitions.** In AS 45.48.100 - 45 48.290,

29 (1) "account review" means activities related to account maintenance,  
30 account monitoring, credit line increases, and account upgrades and enhancements;

31 (2) "consumer" means an individual who is the subject of a credit

1 report or credit score;

2 (3) "consumer credit reporting agency" has the meaning given in  
3 AS 45.48.990, but does not include a person who issues reports

4 (A) on incidents of fraud or authorizations for the purpose of  
5 approving or processing negotiable instruments, electronic funds transfers, or  
6 similar methods of payments; or

7 (B) regarding account closures because of fraud, substantial  
8 overdrafts, automated teller machine abuse, or similar negative information  
9 regarding a consumer to inquiring banks or other financial institutions for use  
10 only in reviewing consumer requests for deposit accounts at the inquiring  
11 banks or financial institutions;

12 (4) "reseller of consumer information" means a person who assembles  
13 and merges information contained in the data bases of consumer credit reporting  
14 agencies and does not maintain a permanent data base of consumer information from  
15 which new consumer credit reports are produced;

16 (5) "security freeze" means a prohibition against a consumer credit  
17 reporting agency from releasing a consumer's credit report or credit score without the  
18 express authorization of the consumer;

19 (6) "third party" means a person who is not

20 (A) the consumer who is the subject of the consumer's credit  
21 report or credit score; or

22 (B) the consumer credit reporting agency that is holding the  
23 consumer's credit report or credit score.

24 **Article 3. Protection of Social Security Number.**

25 **Sec. 45.48.400. Use of social security number.** (a) A person may not

26 (1) intentionally communicate or otherwise make available to the  
27 general public an individual's social security number;

28 (2) print an individual's social security number on a card required for  
29 the individual to access products or services provided by the person;

30 (3) require an individual to transmit the individual's social security  
31 number over the Internet unless the Internet connection is secure or the social security

1 number is encrypted;

2 (4) require an individual to use the individual's social security number  
3 to access an Internet site unless a password, a unique personal identification number,  
4 or another authentication device is also required to access the site; or

5 (5) print an individual's social security number on material that is  
6 mailed to the individual unless

7 (A) local, state, or federal law, including a regulation adopted  
8 under AS 45.48.470, expressly authorizes placement of the social security  
9 number on the material; or

10 (B) the social security number is included on an application or  
11 other form, including a document sent as a part of an application process or an  
12 enrollment process, sent by mail to establish, amend, or terminate an account, a  
13 contract, or a policy, or to confirm the accuracy of the social security number;  
14 however, a social security number allowed to be mailed under this  
15 subparagraph may not be printed, in whole or in part, on a postcard or other  
16 mailer that does not require an envelope, or in a manner that makes the social  
17 security number visible on the envelope or without the envelope's being  
18 opened.

19 (b) The prohibitions in (a) of this section do not apply if the person is  
20 engaging in the business of government and

21 (1) is authorized by law to ~~communicate or otherwise make available~~  
22 ~~to the general public~~ the individual's social security number; or

23 (2) the ~~communicating or otherwise making available~~ of the  
24 individual's social security number is required for the performance of the person's  
25 duties or responsibilities as provided by law.

26 **Sec. 45.48.410. Request and collection.** (a) A person who does business in the  
27 state, including the business of government, may not request or collect from an  
28 individual the individual's social security number. This subsection does not prohibit a  
29 person from asking for another form of identification from the individual.

30 (b) The prohibition in (a) of this section does not apply

31 (1) if the person is expressly authorized by local, state, or federal law,

1 including a regulation adopted under AS 45.48.470, to demand proof of the  
2 individual's social security number, to request or collect the individual's social security  
3 number, or to submit the individual's social security number to the local, state, or  
4 federal government;

5 (2) if the person is engaging in the business of government and

6 (A) is authorized by law to request or collect the individual's  
7 social security number; or

8 (B) the request or collection of the individual's social security  
9 number is required for the performance of the person's duties or  
10 responsibilities as provided by law;

11 ~~(3) to a person regulated by the Gramm-Leach-Bliley Financial~~  
12 ~~Modernization Act for a purpose authorized by the Gramm-Leach-Bliley Financial~~  
13 ~~Modernization Act; 1~~

14 ~~(4) to a person regulated by the Fair Credit Reporting Act for a~~  
15 ~~purpose authorized by the Fair Credit Reporting Act; 1~~

16 (5) if the request or collection is for a background check on the  
17 individual, debt collection, fraud prevention, medical treatment, law enforcement or  
18 other government purposes, or the individual's employment, including employment  
19 benefits; or

20 (6) if the request or collection does not have independent economic  
21 value, is incidental to a larger transaction or a larger anticipated transaction, and is  
22 necessary to verify the identity of the individual.

23 **Sec. 45.48.420. Sale, lease, loan, trade, or rental.** (a) A person may not sell,  
24 lease, loan, trade, or rent an individual's social security number to a third party.

25 (b) The prohibition in (a) of this section does not apply if the sale, lease, loan,  
26 trade, or rental is

27 (1) expressly authorized by local, state, or federal law, including a  
28 regulation adopted under AS 45.48.470;

29 ~~(2) by a person regulated by the Gramm-Leach-Bliley Financial~~  
30 ~~Modernization Act for a purpose authorized by the Gramm-Leach-Bliley Financial~~  
31 ~~Modernization Act; 1~~

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(4) part of a report prepared by a consumer credit reporting agency in response to a request by a person and the person submits the social security number as part of the request to the consumer credit reporting agency for the preparation of the report.

(c) Nothing in this section prevents a business from transferring social security numbers to another person if the transfer is part of the sale or other transfer of the business to the other person.

(d) A transfer of an individual's social security number for the sole purpose of identifying a person about whom a report or database check is ordered, received, or provided is not a sale, lease, loan, trade, or rental of a social security number under this section.

(e) A person who knowingly violates (a) of this section is guilty of a class A misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

**Sec. 45.48.430. Disclosure.** (a) A person doing business, including the business of government, may not disclose an individual's social security number to a third party.

- (b) The prohibition in (a) of this section does not apply if
  - (1) the disclosure is expressly authorized by local, state, or federal law, including a regulation adopted under AS 45.48.470;
  - (2) the person is engaging in the business of government and
    - (A) is authorized by law to disclose the individual's social security number; or
    - (B) the disclosure of the individual's social security number is required for the performance of the person's duties or responsibilities as provided by law;
  - (3) the third party is a financial institution that is regulated by the Gramm-Leach-Bliley Financial Modernization Act, and the disclosure is to facilitate a transaction of the individual;

~~(4) the third party is regulated by the Fair Credit Reporting Act and the~~

1 [REDACTED]

2 (5) the disclosure is part of a report prepared by a consumer credit

3 reporting agency in response to a request by a person and the person submits the social

4 security number as part of the request to the consumer credit reporting agency for the

5 preparation of the report; or

6 (6) the disclosure is for a background check on the individual, debt

7 collection, identity verification, fraud prevention, medical treatment, law enforcement

8 or other government purposes, or the individual's employment, including employment

9 benefits.

10 **Sec. 45.48.440. Interagency disclosure.** Notwithstanding the other provisions

11 of AS 45.48.400 - 45.48.480, a state or local governmental agency may disclose an

12 individual's social security number to another state or local governmental agency or to

13 an agency of the federal government if the disclosure is required in order for the

14 agency to carry out the agency's duties and responsibilities.

15 **Sec. 45.48.450. Exception for employees, agents, and independent**

16 **contractors.** (a) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, a

17 person may disclose an individual's social security number to an employee or agent of

18 the person for a legitimate purpose established by and as directed by the person, but

19 the employee or agent may not use the social security number for another purpose or

20 make an unauthorized disclosure of the individual's personal information.

21 (b) Notwithstanding the other provisions of AS 45.48.400 - 45.48.480, and

22 except as provided for an agent under (a) of this section, a person may disclose an

23 individual's social security number to an independent contractor of the person to

24 facilitate the purpose or transaction for which the individual initially provided the

25 social security number to the person, but the independent contractor may not use the

26 social security number for another purpose or make an unauthorized disclosure of the

27 individual's personal information.

28 **Sec. 45.48.460. Employment-related exception.** The provisions of

29 AS 45.48.400 - 45.48.480 may not be construed to restrict a person's use or exchange

30 of an individual's social security number

31 (1) in the course of the administration of a claim, benefit, or procedure

1 related to the individual's employment by the person, including the individual's  
2 termination from employment, retirement from employment, and injury suffered  
3 during the course of employment; or

4 (2) to check on an unemployment insurance claim of the individual.

5 **Sec. 45.48.470. Agency regulations.** If regulations are necessary in order for a  
6 state agency to carry out the state agency's duties and responsibilities, a state agency  
7 may adopt regulations under AS 44.62 (Administrative Procedure Act) to establish  
8 when the state agency or a person regulated by the state agency may

9 (1) print an individual's social security number on material that is  
10 mailed to the individual;

11 (2) demand proof from an individual of the individual's social security  
12 number, collect from an individual the individual's social security number, or submit  
13 an individual's social security number to a local, state, or federal agency;

14 (3) ask an individual to provide the state agency with the individual's  
15 social security number;

16 (4) disclose an individual's social security number to a third party;

17 (5) sell, lease, loan, trade, or rent an individual's social security number  
18 to a third party.

19 **Sec. 45.48.480. Penalties.** (a) A person who knowingly violates AS 45.48.400  
20 - 45.48.430 is liable to the state for a civil penalty not to exceed \$3,000.

21 (b) An individual may bring a civil action in court against a person who  
22 knowingly violates AS 45.48.400 - 45.48.430 and may recover actual economic  
23 damages, court costs allowed by the rules of court, and full reasonable attorney fees.

24 (c) In this section, "knowingly" has the meaning given in AS 11.81.900.

#### 25 **Article 4. Disposal of Records.**

26 **Sec. 45.48.500. Disposal of records.** (a) When disposing of records that  
27 contain personal information, a business and a governmental agency shall take all  
28 reasonable measures necessary to protect against unauthorized access to or use of the  
29 records.

30 (b) Notwithstanding (a) of this section, if a business or governmental agency  
31 has otherwise complied with the provisions of AS 45.48.500 - 45.48.590 in the

1 selection of a third party engaged in the business of record destruction, the business or  
2 governmental agency is not liable for the disposal of records under AS 45.48.500 -  
3 45.48.590 after the business or governmental agency has relinquished control of the  
4 records to the third party for the destruction of the records.

5 (c) A business or governmental agency is not liable for the disposal of records  
6 under AS 45.48.500 - 45.48.590 after the business or governmental agency has  
7 relinquished control of the records to the individual to whom the records pertain.

8 **Sec. 45.48.510. Measures to protect access.** The measures that may be taken  
9 to comply with AS 45.48.500 include

10 (1) implementing and monitoring compliance with policies and  
11 procedures that require the burning, pulverizing, or shredding of paper documents  
12 containing personal information so that the personal information cannot practicably be  
13 read or reconstructed;

14 (2) implementing and monitoring compliance with policies and  
15 procedures that require the destruction or erasure of electronic media and other  
16 nonpaper media containing personal information so that the personal information  
17 cannot practicably be read or reconstructed;

18 (3) after due diligence, entering into a written contract with a third  
19 party engaged in the business of record destruction to dispose of records containing  
20 personal information in a manner consistent with AS 45.48.500 - 45.48.590.

21 **Sec. 45.48.520. Due diligence.** In AS 45.48.510(3), due diligence ordinarily  
22 includes performing one or more of the following:

23 (1) reviewing an independent audit of the third party's operations and  
24 its compliance with AS 45.48.500 - 45.48.590;

25 (2) obtaining information about the third party from several references  
26 or other reliable sources and requiring that the third party be certified by a recognized  
27 trade association or similar organization with a reputation for high standards of quality  
28 review; or

29 (3) reviewing and evaluating the third party's information security  
30 policies and procedures, or taking other appropriate measures to determine the  
31 competency and integrity of the third party.

1           **Sec. 45.48.530. Policy and procedures.** A business or governmental agency  
2 shall adopt written policies and procedures that relate to the adequate destruction and  
3 proper disposal of records containing personal information and that are consistent with  
4 AS 45.48.500 - 45.48.590.

5           **Sec. 45.48.540. Exemptions.** (a) A business or a governmental agency is not  
6 required to comply with AS 45.48.500 - 45.48.530 if federal law requires that the  
7 business or governmental agency act in a way that does not comply with AS 45.48.500  
8 - 45.48.530.

9           (b) A business is not required to comply with AS 45.48.500 - 45.48.530 if

10           (1) the business is subject to and in compliance with the Gramm-  
11 Leach-Bliley Financial Modernization Act; or

12           (2) the manner of the disposal of the records of the business is subject  
13 to 15 U.S.C. 1681w of the Fair Credit Reporting Act and the business is complying  
14 with 15 U.S.C. 1861w.

15           **Sec. 45.48.550. Civil penalty.** (a) An individual, a business, or a governmental  
16 agency that knowingly violates AS 45.48.500 - 45.48.590 is liable to the state for a  
17 civil penalty not to exceed \$3,000.

18           (b) In this section, "knowingly" has the meaning given in AS 11.81.900.

19           **Sec. 45.48.560. Court action.** An individual who is damaged by a violation of  
20 AS 45.48.500 - 45.48.590 may bring a civil action in court to enjoin further violations  
21 and to recover for the violation actual economic damages, court costs allowed by the  
22 rules of court, and full reasonable attorney fees.

23           **Sec. 45.48.590. Definitions.** In AS 45.48.500 - 45.48.590,

24           (1) "business" means a person who conducts business in the state or a  
25 person who conducts business and maintains or otherwise possesses personal  
26 information on state residents; in this paragraph,

27           (A) "conducts business" includes engaging in activities as a  
28 financial institution organized, chartered, or holding a license or authorization  
29 certificate under the laws of this state, another state, the United States, or  
30 another country;

31           (B) "possesses" includes possession for the purpose of

1 destruction;

2 (2) "dispose" means

3 (A) the discarding or abandonment of records containing  
4 personal information;

5 (B) the sale, donation, discarding, or transfer of

6 (i) any medium, including computer equipment or  
7 computer media, that contains records of personal information;

8 (ii) nonpaper media, other than that identified under (i)  
9 of this subparagraph, on which records of personal information are  
10 stored; and

11 (iii) equipment for nonpaper storage of information;

12 (3) "governmental agency" means a state or local governmental  
13 agency, except for an agency of the judicial branch;

14 (4) "personal information" means

15 (A) an individual's passport number, driver's license number,  
16 state identification number, bank account number, credit card number, debit  
17 card number, other payment card number, financial account information, or  
18 information from a financial application; or

19 (B) a combination of an individual's

20 (i) name; and

21 (ii) medical information, insurance policy number,  
22 employment information, or employment history;

23 (5) "records" means material on which information that is written,  
24 drawn, spoken, visual, or electromagnetic is recorded or preserved, regardless of  
25 physical form or characteristics, but does not include publicly available information  
26 containing names, addresses, telephone numbers, or other information an individual  
27 has voluntarily consented to have publicly disseminated or listed.

28 **Article 5. Factual Declaration of Innocence after Identity Theft; Right to File Police**  
29 **Report Regarding Identity Theft.**

30 **Sec. 45.48.600. Factual declaration of innocence after identity theft. (a) A**  
31 **victim of identity theft may petition the superior court for a determination that the**

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victim is factually innocent of a crime if

(1) the perpetrator of the identity theft was arrested for, cited for, or convicted of the crime using the victim's identity;

(2) a criminal complaint was filed against the perpetrator of the identity theft; and

(3) the victim's identity was mistakenly associated with a record of a conviction for a crime.

(b) In addition to a petition by a victim under (a) of this section, the department may petition the superior court for a determination under (a) of this section, or the superior court may, on its own motion, make a determination under (a) of this section.

**Sec. 45.48.610. Basis for determination.** A determination of factual innocence under AS 45.48.600 may be heard and made on declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be made a part of the record by the court.

**Sec. 45.48.620. Criteria for determination; court order.** (a) A court may determine that a petitioner under AS 45.48.600 is factually innocent of a crime if the court finds beyond a reasonable doubt that

(1) the petitioner is a victim of identity theft;

(2) the petitioner did not commit the offense for which the perpetrator of the identity theft was arrested, cited, or convicted;

(3) the petitioner filed a criminal complaint against the perpetrator of the identity theft; and

(4) the petitioner's identity was mistakenly associated with a record of conviction for the crime.

(b) If a court finds under this section that the victim is factually innocent of a crime, the court shall issue an order indicating this determination of factual innocence and shall provide the victim with a copy of the order.

**Sec. 45.48.630. Orders regarding records.** After a court issues an order under AS 45.48.620, the court may order the name and associated personal information of the victim of identity theft that is contained in the files, indexes, and other records of

1 the court that are accessible by the public labeled to show that the name and personal  
2 information of the victim of identity theft is incorrect.

3 **Sec. 45.48.640. Vacation of determination.** A court that has issued an order  
4 under AS 45.48.620 may, at any time, vacate the order if the petition, or any  
5 information submitted in support of the petition, is found to contain a material  
6 misrepresentation, omission, or false information.

7 **Sec. 45.48.650. Court form.** The supreme court of the state may develop a  
8 form to be used for the order under AS 45.48.620.

9 **Sec. 45.48.660. Data base.** The department may establish and maintain a data  
10 base of individuals who have been victims of identity theft and who have received an  
11 order under AS 45.48.620. The department shall provide a victim or the victim's  
12 authorized representative access to a data base established under this section to  
13 establish that the individual has been a victim of identity theft. Access to the a data  
14 base established under this section is limited to criminal justice agencies, victims of  
15 identity theft, and individuals and agencies authorized by the victims.

16 **Sec. 45.48.670. Toll-free telephone number.** The department may establish  
17 and maintain a toll-free telephone number to provide access to information in a data  
18 base established under AS 45.48.660.

19 **Sec. 45.48.680. Right to file police report regarding identity theft.** (a) Even  
20 if the local law enforcement agency does not have jurisdiction over the theft of an  
21 individual's identity, if an individual who has learned or reasonably suspects the  
22 individual has been the victim of identity theft contacts, for the purpose of filing a  
23 complaint, a local law enforcement agency that has jurisdiction over the individual's  
24 actual place of residence, the local law enforcement agency shall make a report of the  
25 matter and provide the individual with a copy of the report. The local law enforcement  
26 agency may refer the matter to a law enforcement agency in a different jurisdiction.

27 (b) This section is not intended to interfere with the discretion of a local law  
28 enforcement agency to allocate its resources to the investigation of crime. A local law  
29 enforcement agency is not required to count a complaint filed under (a) of this section  
30 as an open case for purposes that include compiling statistics on its open cases.

31 **Sec. 45.48.690. Definitions.** In AS 45.48.600 - 45.48.690,

- 1 (1) "crime" has the meaning given in AS 11.81.900;
- 2 (2) "department" means the Department of Law;
- 3 (3) "perpetrator" means the person who perpetrated the theft of an
- 4 individual's identity;
- 5 (4) "victim" means an individual who is the victim of identity theft.

6 **Article 6. Truncation of Card Information.**

7 **Sec. 45.48.750. Truncation of card information.** (a) A person who accepts

8 credit cards or debit cards for the transaction of business may not print more than the

9 last four digits of the card number or the expiration date on any receipt or other

10 physical record of the transaction provided at the point of the sale or transaction.

11 (b) This section applies only to receipts that are electronically printed and does

12 not apply to transactions in which the sole means of recording a credit card or debit

13 card account number is by handwriting or by an imprint or copy of the card.

14 (c) A person may not sell a device that electronically prints more than the last

15 four digits of a credit card or debit card on a consumer receipt for a business

16 transaction or on a copy retained by a business person for a business transaction.

17 (d) An individual may bring a civil action in court against a person who

18 knowingly violates (a) of this section and may recover actual economic damages,

19 court costs allowed by the rules of court, and full reasonable attorney fees.

20 (e) A person who knowingly violates this section is liable to the state for a

21 civil penalty not to exceed \$3,000.

22 (f) In this section,

23 (1) "credit" means the right granted by a creditor to a debtor to defer

24 payment of debt, to incur debts and defer payment of the debt, or to purchase property

25 or services and defer payment of the purchase; in this paragraph, "creditor" means a

26 person who regularly extends, renews, or continues credit, a person who regularly

27 arranges for the extension, renewal, or continuation of credit, or an assignee of an

28 original creditor who participates in the decision to extend, renew, or continue credit;

29 (2) "credit card" means a card, plate, coupon book, or other credit

30 device existing for the purpose of obtaining money, property, labor, or services on

31 credit;

1 (3) "debit card" means a card issued by a financial institution to a  
 2 consumer for use in initiating an electronic fund transfer from the account of the  
 3 consumer at the financial institution for the purpose of transferring money between  
 4 accounts or obtaining money, property, labor, or services;

5 (4) "knowingly" has the meaning given in AS 11.81.900.

6 **Article 7. General Provisions.**

7 **Sec. 45.48.990. Definitions.** In this chapter, unless the context indicates  
 8 otherwise,

9 (1) "consumer" means an individual;

10 (2) "consumer credit reporting agency" means a person who, for  
 11 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or  
 12 in part in the practice of assembling or evaluating consumer credit information or  
 13 other information on consumers for the purpose of furnishing credit reports to third  
 14 parties;

15 (3) "credit report" means a written, oral, or other communication of  
 16 information by a consumer credit reporting agency bearing on a consumer's credit  
 17 worthiness, credit standing, credit capacity, character, general reputation, personal  
 18 characteristics, or mode of living if the communication is used or expected to be used  
 19 or collected in whole or in part to serve as a factor in establishing the consumer's  
 20 eligibility for

21 (A) credit or insurance to be used primarily for personal,  
 22 family, or household purposes;

23 (B) employment purposes; or

24 (C) any other permissible purpose authorized under section 15  
 25 U.S.C. 1681b;

26 ~~(4) "Fair Credit Reporting Act" means 15 U.S.C. 1681 - 1681x;~~

27 ~~(5) "Gramm-Leach-Bliley Financial Modernization Act" means 15~~

28 ~~U.S.C. 6001 - 6027;~~

29 (6) "identity theft" means the theft of the identity of an individual;

30 (7) "information system" means any information system, including a  
 31 system consisting of digital data bases and a system consisting of pieces of paper;

1 (8) "person" has the meaning given in AS 01.10.060 and includes a  
2 state or local governmental agency, except for an agency of the judicial branch;

3 (9) "state resident" means an individual who satisfies the residency  
4 requirements under AS 01.10.055.

5 **Sec. 45.48.995. Short title.** This chapter may be cited as the Alaska Personal  
6 Information Protection Act.

7 \* **Sec. 4.** AS 45.50.471(b) is amended by adding a new paragraph to read:

8 (53) an information collector, other than a governmental agency,  
9 violating AS 45.48.010 - 45.48.090 (breach of security involving personal  
10 information); in this paragraph,

11 (A) "governmental agency" has the meaning given in  
12 AS 45.48.090;

13 (B) "information collector" has the meaning given in  
14 AS 45.48.090.

15 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 45.48.640, enacted by sec. 3 of  
18 this Act, has the effect of changing Rule 60(b), Alaska Rules of Civil Procedure, by allowing  
19 a court to vacate an order on its own motion and at any time and by establishing a specific  
20 criterion for vacating the order under AS 45.48.640.

21 (b) AS 45.48.200(a), 45.48.480(b), 45.48.560, and 45.48.750(d), enacted by sec. 3 of  
22 this Act, have the effect of changing Rule 82, Alaska Rules of Civil Procedure, by changing  
23 the criteria for determining the amount of attorney fees to be awarded to a party in an action  
24 under AS 45.48.200(a), 45.48.480(b), 45.48.560, or 45.48.750(d).

25 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 **TRANSITION: REGULATIONS.** A state agency may proceed to adopt regulations  
28 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative  
29 Procedure Act), but not before the effective date of the law implemented by the regulation.

30 \* **Sec. 7.** AS 45.48.470, enacted by sec. 3 of this Act, takes effect immediately under  
31 AS 01.10.070(c).