

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 614

By: Newberry

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6 AS INTRODUCED

7 An Act relating to the Security Breach Notification
8 Act; amending 24 O.S. 2011, Sections 163 and 165,
9 which relate to duty to disclose breach and
10 enforcement; modifying certain notice requirement;
11 requiring disclosure of certain breach to Attorney
12 General; authorizing recovery for certain injury or
13 loss to certain financial institutions; modifying
14 certain enforcement authority; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 24 O.S. 2011, Section 163, is
18 amended to read as follows:

19 Section 163. A. An individual or entity that owns or licenses
20 computerized data that includes personal information shall disclose
21 any breach of the security of the system following discovery or
22 notification of the breach of the security of the system to each
23 financial institution that issued a credit or debit card compromised
24 by the breach and to any resident of this state whose unencrypted
and unredacted personal information was or is reasonably believed to
have been accessed and acquired by an unauthorized person and that
causes, or the individual or entity reasonably believes has caused

1 or will cause, identity theft or other fraud to any resident of this
2 state. Except as provided in subsection D of this section or in
3 order to take any measures necessary to determine the scope of the
4 breach and to restore the reasonable integrity of the system, the
5 disclosure shall be made without unreasonable delay.

6 B. An individual or entity must disclose the breach of the
7 security of the system if encrypted information is accessed and
8 acquired in an unencrypted form or if the security breach involves a
9 person with access to the encryption key and the individual or
10 entity reasonably believes that such breach has caused or will cause
11 identity theft or other fraud to any resident of this state. A
12 person who conducts business in this state and owns or licenses
13 computerized data that includes sensitive personal information
14 shall, no later than the third business day after the date the
15 person discovers or receives notification of a breach of system
16 security compromising credit or debit card information, disclose the
17 breach to the Office of the Attorney General.

18 C. An individual or entity that maintains computerized data
19 that includes personal information that the individual or entity
20 does not own or license shall notify the owner or licensee of the
21 information of any breach of the security of the system as soon as
22 practicable following discovery, if the personal information was or
23 if the entity reasonably believes was accessed and acquired by an
24 unauthorized person.

1 D. Notice required by this section may be delayed if a law
2 enforcement agency determines and advises the individual or entity
3 that the notice will impede a criminal or civil investigation or
4 homeland or national security. Notice required by this section must
5 be made without unreasonable delay after the law enforcement agency
6 determines that notification will no longer impede the investigation
7 or jeopardize national or homeland security.

8 SECTION 2. AMENDATORY 24 O.S. 2011, Section 165, is
9 amended to read as follows:

10 Section 165. A. A violation of ~~this act~~ the Security Breach
11 Notification Act that results in injury or loss to residents of this
12 state or to a financial institution may be enforced by the Attorney
13 General or a district attorney in the same manner as an unlawful
14 practice under the Oklahoma Consumer Protection Act.

15 B. ~~Except as provided in subsection C of this section, the~~ The
16 Attorney General or a district attorney shall have exclusive
17 authority to bring action and may obtain either actual damages for a
18 violation of ~~this act~~ the Security Breach Notification Act or a
19 civil penalty not to exceed One Hundred Fifty Thousand Dollars
20 (\$150,000.00) per breach of the security of the system or series of
21 breaches of a similar nature that are discovered in a single
22 investigation. In determining actual damages in an action
23 concerning injury or loss to a financial institution, the Attorney
24 General or district attorney may consider costs incurred by the

1 financial institution for accounts affected by the breach including,
2 but not limited to:

3 1. The cancellation and reissuance of a credit or debit card;

4 2. The closing of an account and any action to stop payment or
5 block a transaction with respect to the account;

6 3. The opening or reopening of an account;

7 4. A refund or credit made to an account holder to cover the
8 cost of any unauthorized transaction; and

9 5. The notification of account holders.

10 ~~C. A violation of this act by a state-chartered or state-~~
11 ~~licensed financial institution shall be enforceable exclusively by~~
12 ~~the primary state regulator of the financial institution.~~

13 SECTION 3. This act shall become effective November 1, 2017.

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