LEGISLATIVE BILL 61

Introduced by Murante, 49.
Read first time January 10, 2013
Committee: Judiciary

A BILL

1 FOR AN ACT relating to finance; to amend sections 87-803 and 87-804,
2 Reissue Revised Statutes of Nebraska; to change
3 provisions relating to the Financial Data Protection and
4 Consumer Notification of Data Security Breach Act of
5 2006; to provide powers to and duties for the Attorney
6 General; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,
Section 1. Section 87-803, Reissue Revised Statutes of Nebraska, is amended to read:

87-803 (1) An individual or a commercial entity that conducts business in Nebraska and that owns or licenses computerized data that includes personal information about a resident of Nebraska shall, when it becomes aware of a breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be used for an unauthorized purpose. If the investigation determines that the use of information about a Nebraska resident for an unauthorized purpose has occurred or is reasonably likely to occur, the individual or commercial entity shall give notice to the affected Nebraska resident and to the Attorney General. Notice shall be made as soon as possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

(2) An individual or a commercial entity that maintains computerized data that includes personal information that the individual or commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system when it becomes aware of a breach if use of personal information about a Nebraska resident for an unauthorized purpose occurred or is reasonably likely to occur.
Cooperation includes, but is not limited to, sharing with the owner or licensee information relevant to the breach, not including information proprietary to the individual or commercial entity.

(3) Notice required by this section, except notice to the Attorney General, may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay, and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.

(4) Notice to the Attorney General, as provided in subsection (1) of this section, shall be written notice and shall include, but not be limited to, the nature of the breach of the security system or unauthorized acquisition or use and the names and addresses of residents of Nebraska affected by the breach or unauthorized acquisition or use.

(5) Failure to comply with the requirements of this section shall also constitute a deceptive trade practice under the Uniform Deceptive Trade Practices Act and the remedies and penalties set forth in the Uniform Deceptive Trade Practices Act shall be available, including enforcement action by the Attorney General.

Sec. 2. Section 87-804, Reissue Revised Statutes of Nebraska, is amended to read:

87-804 (1) An individual or a commercial entity that maintains its own notice procedures which are part of an information security policy for the treatment of personal information and which
are otherwise consistent with the timing requirements of section 87-803 if the individual or the commercial entity notifies affected Nebraska residents and the Attorney General in accordance with its notice procedures in the event of a breach of the security of the system.

(2) An individual or a commercial entity that is regulated by state or federal law and that maintains procedures for a breach of the security of the system pursuant to the laws, rules, regulations, guidances, or guidelines established by its primary or functional state or federal regulator is deemed to be in compliance with section 87-803 if the individual or commercial entity notifies affected Nebraska residents and the Attorney General in accordance with the maintained procedures in the event of a breach of the security of the system.

Sec. 3. Original sections 87-803 and 87-804, Reissue Revised Statutes of Nebraska, are repealed.