

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
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,

1 Section 1. Section 87-803, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 87-803 (1) An individual or a commercial entity that
4 conducts business in Nebraska and that owns or licenses computerized
5 data that includes personal information about a resident of Nebraska
6 shall, when it becomes aware of a breach of the security of the
7 system, conduct in good faith a reasonable and prompt investigation
8 to determine the likelihood that personal information has been or
9 will be used for an unauthorized purpose. If the investigation
10 determines that the use of information about a Nebraska resident for
11 an unauthorized purpose has occurred or is reasonably likely to
12 occur, the individual or commercial entity shall give notice to the
13 affected Nebraska resident and to the Attorney General. Notice shall
14 be made as soon as possible and without unreasonable delay,
15 consistent with the legitimate needs of law enforcement and
16 consistent with any measures necessary to determine the scope of the
17 breach and to restore the reasonable integrity of the computerized
18 data system.

19 (2) An individual or a commercial entity that maintains
20 computerized data that includes personal information that the
21 individual or commercial entity does not own or license shall give
22 notice to and cooperate with the owner or licensee of the information
23 of any breach of the security of the system when it becomes aware of
24 a breach if use of personal information about a Nebraska resident for
25 an unauthorized purpose occurred or is reasonably likely to occur.

1 Cooperation includes, but is not limited to, sharing with the owner
2 or licensee information relevant to the breach, not including
3 information proprietary to the individual or commercial entity.

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

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

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

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

23 87-804 (1) An individual or a commercial entity that
24 maintains its own notice procedures which are part of an information
25 security policy for the treatment of personal information and which

1 are otherwise consistent with the timing requirements of section
2 87-803, is deemed to be in compliance with the notice requirements of
3 section 87-803 if the individual or the commercial entity notifies
4 affected Nebraska residents and the Attorney General in accordance
5 with its notice procedures in the event of a breach of the security
6 of the system.

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

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