

By: Martinez

H.B. No. 1262

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for the breach of security of certain computerized data containing sensitive personal information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 48, Business & Commerce Code, as added by Chapter 294, Acts of the 79th Legislature, Regular Session, 2005, is amended by adding Section 48.204 to read as follows:

Sec. 48.204. STRICT LIABILITY FOLLOWING BREACH OF SECURITY OF CERTAIN COMPUTERIZED DATA. (a) In this section, "breach of system security" has the meaning assigned by Section 48.103, including the exception provided by Section 48.103(a) for the good faith acquisition of sensitive personal information by an employee or agent of the person maintaining the information.

(b) A public or private entity that maintains computerized data that includes sensitive personal information is, following any breach of system security of that data, strictly liable to each individual whose sensitive personal information was acquired by an unauthorized person.

(c) The amount of liability to each individual described by Subsection (b) is:

(1) the amount of actual damages sustained by the individual as a result of the breach of system security;

(2) statutory damages in the amount of \$1,000; and

1 (3) an amount necessary to cover the costs charged by a
2 consumer reporting agency, as that term is defined by Section
3 20.01, for monitoring the individual's consumer credit information
4 for the two-year period following the date of the breach of system
5 security.

6 (d) An individual described by Subsection (b) is also
7 entitled to recover any court costs and reasonable attorney's fees
8 incurred in seeking damages and other amounts the individual may be
9 entitled to recover for a claim under this section.

10 (e) Sovereign immunity to suit is waived and abolished to
11 the extent of liability created by this section.

12 (f) An individual having a claim under this section may sue
13 a governmental unit, as that term is defined by Section 101.001,
14 Civil Practice and Remedies Code, for damages and other amounts the
15 individual may be entitled to recover under this section.

16 SECTION 2. This Act takes effect September 1, 2007.