

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
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Alabama	2006 Proposed S.B. 220						
Alaska	2007 Proposed S.B. 21 and HB 31						
Arizona	Ariz. Rev. Stat. § 44-7501 Effective Date: 12-31-06	1) HIPAA Covered Entities excluded. 2) Encryption 3) Redaction 4) Secured by any other method rendering the element unreadable or unusable	Includes substitute notice provisions	AG may bring action for actual damages and penalties up to \$10k per incident	"Security Breach" means an unauthorized acquisition of and access to unencrypted or unredacted computerized data that materially compromises the security or confidentiality of personal information maintained by a person as part of a database of personal information regarding multiple individuals and that causes or is reasonably likely to cause substantial economic loss to an individual.	"Personal Information": (a) means an individual's first name or first initial and last name in combination with any one or more of the following data elements: (i) the individual's social security number. (ii) the individual's number on a driver license issued pursuant to section 28-3166 or number on a non-operating identification license issued pursuant to section 28-3165. (iii) the individual's financial account number or credit or debit card number in combination with any required security code, access code or password that would permit access to the individual's financial account.	Notice shall be made in the most expedient manner possible and without unreasonable delay
Arkansas	Ark. Code § 4-110-101 et seq. Effective Date: 3-31-2005	1) Encryption 2) Redaction	1) Notification is not required if after a reasonable investigation the person or business determines that there is no reasonable likelihood of harm to customers. 2) Includes substitute notice provisions	AG may bring action	"Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a person or business.	"Personal information" means an individual's first name or first initial and his or her last name in combination with any one (1) or more of the following data elements: (A) Social security number; (B) Driver's license number or Arkansas identification card number; (C) Account number, credit card number, or debit card number in combination with any required security code, access code or password that would permit access to an individual's financial account; and (D) Medical information.	In the most expedient time and manner possible and without unreasonable delay.

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<b>California</b>	Cal. Civ. Code § 1798.82 Effective Date: 7-1-2003  Assembly Bill 1298 Effective Date 1-1-2008	Encryption	1) Includes substitute notice provisions 2) Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision  A.B. 1298 deletes the "primary purpose" standard, thereby expanding the CMIA to regulate "any business organized for the purpose of maintaining medical information in order to make the information available to an individual or to a provider of health care at the request of the individual or a provider of health care, for the purposes of allowing the individual to manage his or her own information, or for the diagnosis or treatment of the individual.	Right of private action	"Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements (1) Social security number. (2) Drivers license number or California Identification Card number. (3) Account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account. (4) "Medical Information" which is defined as "any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional." (5) "Health Insurance Information" which is defined as "an individual's health insurance policy number or subscriber information number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records."	The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.
<b>Colorado</b>	Col. Rev. Stat. § 6-1-716  Effective Date: 9/1/06	1) Encryption 2) Redacted 3) Secured by any other method rendering the element unreadable or unusable 4) If an investigation determines that misuse of information about a Colorado resident has not occurred and is not reasonably likely to occur.	Permits substitute notice of the breach if: 1) The cost of providing notice would exceed \$250k, 2) The affected class of persons to be notified exceeds 250,000 residents 3) There is not sufficient contact information to provide notice.	AG may bring action	"Breach of the security of the system" means the unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by an individual or a commercial entity.	"Personal information" means a Colorado resident's first name or first initial and last name in combination with any one or more of the following data elements: (a) Social Security number; (b) Driver's license number or identification card number; (c) Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to a resident's financial account.	Shall give notice as soon as possible to the affected Colorado resident. Notice shall be made in the most expedient time possible.

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
<b>Connecticut</b>	Conn. Gen Stat. 36A-701(b)  Effective Date: 1-1-06	1) Encryption or "other means" 2) Notification s not required if, an appropriate investigation and consultation with relevant federal, state and local agencies responsible for law enforcement, reasonably determines that the breach will not likely result in harm to the individuals	Includes substitute notice provisions	AG may bring action	"Breach of security" means unauthorized access to or acquisition of electronic files, media, databases or computerized data containing personal information when access to the personal information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable	"Personal information" means an individual's first name or first initial and last name in combination with any one, or more, of the following data: (1) Social Security number; (2) driver's license number or state identification card number; or (3) account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	Disclosure should be made without unreasonable delay.
<b>Delaware</b>	De. Code tit. 6, § 12B-101 et seq.  Effective Date: 6-28-2005	Encryption	1) If notice is required, must also notify Consumer Protection Division of Dept of Justice 2) Includes substitute notice provisions	1) Private action specifies triple damages plus atty fees 2) AG may bring action	"Breach of the security of the system" means the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by an individual or a commercial entity.	"Personal information" means a Delaware resident's first name or first initial and last name in combination with any one or more of the following data elements : (I) Social security number; (ii) driver's license number or Delaware Identification Card Number; (iii) account number, or credit or debit card number, alone or in combination with any required security code, access code, or password that would permit access to a resident's financial account; or (iv) individually identifiable information, in electronic or physical form, regarding the Delaware resident's medical history or medical treatment or diagnosis by a health care professional.	1) Shall give notice immediately following the discovery of a breach if personal information was, or is reasonably believed to have been, acquired by an unauthorized person. 2) Notification must be made in the most expedient time possible and without unreasonable delay 3) **if required to give notice of a breach in the security of personal information, shall also promptly provide written notification of the nature and circumstances of the breach to the Consumer Protection Division of the Department of Justice.
<b>D. C.</b>	D.C. Code § 28-3851 et seq.  B16-0810 Signed December 2006. To amend Title 28 of the DC code Effective 7-1-2007		DOES NOT include encryption safeharbor	1) Civil action to recover actual damages, the costs of the action, and reasonable attorney's fees. Actual damages shall not include dignitary damages, including pain and suffering. 2) The Attorney General may recover a civil penalty not to exceed \$100 for each violation, the costs of the action, and reasonable attorney's fees. 3) Each failure to provide a District of Columbia resident with notification in accordance with this section shall constitute a separate violation.	"Breach of the security of the system" means unauthorized acquisition of computerized or other electronic data, or any equipment or device storing such data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business.	"Personal information" means: An individual's first name or first initial and last name, or phone number, or address, and any one or more of the following data elements: (I) Social security number; (II) Driver's license number or District of Columbia Identification Card number; or (III) Credit card number or debit card number; or (ii) Any other number or code or combination of numbers or codes, such as account number, security code, access code, or password, that allows access to or use of an individual's financial or credit account.	1) The notification shall be made without unreasonable delay, 2) If required to notify more than 1,000 persons of a breach of security, the person shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis

**Information System Security Breach Notification  
Survey of State Laws**

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<b>Florida</b>	Fla. Stat. § 817.5681  Effective Date: 7-1-2005	Encryption	Includes substitute notice provisions	If required to make notification and fail to do so within specified time limits, liable for an administrative fine not to exceed \$500,000 (per breach, not individual). This also applies to companies that host data.	The terms "breach" and "breach of the security of the system" mean unlawful and unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by the person.	"Personal information" means an individual's first name, first initial and last name, or any middle name and last name, in combination with any one or more of the following data elements when the data elements are not encrypted: (a) Social security number. (b) Driver's license number or Florida Identification Card number. (c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account	1) The notification shall be made without unreasonable delay. Notification must be made no later than 45 days following the determination of the breach unless otherwise provided in this section. 2) Notification is not required if, after an appropriate investigation or after consultation with relevant federal, state, and local agencies responsible for law enforcement, the person reasonably determines that the breach has not and will not likely result in harm to the individuals whose personal information has been acquired and accessed. Such a determination must be documented in writing and the documentation must be maintained for 5 years.
<b>Georgia</b>	Ga. Code § 10-1-910 et seq. Effective Date: 5-5-05	1) Encryption 2) Redaction	Applies to Information Brokers	Right of private action			1) The notification shall be made without unreasonable delay. 2) If more than 10,000 persons, must also notify credit reporting agencies
<b>Hawaii</b>	Hawaii Rev. Stat. § 487N-2 Effective Date: 5-25-06	1) Risk of harm must be identified prior to reporting requirements 2) Encryption 3) Redaction down to four digits 4) HIPAA Covered Entities are deemed compliant	1) Includes both computerized and paper records 2) Includes substitute notice provisions,	Provides for enforcement by the Hawaii AG or its Executive Director of the Office of Consumer Protection.	"Security breach" means an incident of unauthorized access where illegal use has occurred.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number; (2) Driver's license number or Hawaii identification card number; or (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial account.	1) Notice shall be made without unreasonable delay. 2) In the event a business provides notice to more than one thousand persons, the business shall notify in writing the State of Hawaii's office of consumer protection and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis.

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<b>Idaho</b>	Id. Code §§ 28-51-104 to 28-51-107 Effective Date: 7-1-06	Encryption	Risk of harm must be identified prior to reporting requirements  Includes substitute notice provisions	1. Primary regulator may bring civil action 2. Intentionally failing to give notice: Fine of 25k per breach	"Security Breach" means the illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information for one (1) or more persons maintained by an agency, individual or a commercial entity.	"Personal information" means an Idaho resident's first name or first initial and last name in combination with any one (1) or more of the following data elements that relate to the resident, when either the name or the data elements are not encrypted: (a) Social security number; (b) Driver's license number or Idaho identification card number; or (c) Account number, or credit or debit card number, in combination with any required security code, access code or password that would permit access to a resident's financial account.	1) Notice is required if: If the investigation determines that the misuse of information about an Idaho resident has occurred or is reasonably likely to occur. 2) Notice shall be made without unreasonable delay need prompt investigation and notice as soon as possible.
<b>Illinois</b>	815 Ill. Comp. Stat. 530/1 et seq. Effective Date: 1-1-06	1) Encryption 2) Redaction	Includes substitute notice provisions		"Breach of the security of the system data" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the data collector.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted: (1) Social Security number. (2) Driver's license number or State identification card number.	The disclosure notification shall be made in the most expedient time possible and without unreasonable delay
<b>Indiana</b>	Ind. Code § 24-4.9 Effective Date: 7-1-2006	1) Encryption 2) Redaction	1) Includes paper if the information has ever been digitized; 2) Includes encrypted information if the breach COULD result in identity deception	1) AG may bring action; 2) fines up to \$150K per deceptive act plus fees and AG's costs in pursuing	1) "Breach of the security of a system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a person 2) The term includes the unauthorized acquisition of computerized data that have been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.	"Personal information" means: (1) a Social Security number that is not encrypted or redacted; or (2) an individual's first and last names, or first initial and last name, and one (1) or more of the following data elements (A) A driver's license number. (B) A state identification card number. (C) A credit card number. (D) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.	1) Notification shall be made without unreasonable delay. 2) If required to make a disclosure to more than one thousand (1,000) consumers shall also disclose to each consumer reporting agency
<b>Iowa</b>	No Proposal						

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<b>Kansas</b>	Kansas Stat. 50-7a01, 50-7a02 (2006 S.B. 196, Chapter 149) Effective Date: 1-1-2007	1) Encryption 2) Redaction		AG may bring action	"Security breach" means the unauthorized access and acquisition of unencrypted or unredacted computerized data that compromises the security, confidentiality or integrity of personal information maintained by an individual or a commercial entity and that causes, or such individual or entity reasonably believes has caused or will cause, identity theft to any consumer.	"Personal information" means a consumer's first name or first initial and last name linked to any one or more of the following data elements that relate to the consumer, when the data elements are neither encrypted nor redacted: (1) Social security number; (2) driver's license number or state identification card number; or (3) financial account number, or credit or debit card number, alone or in combination with any required security code, access code or password that would permit access to a consumer's financial account.	Security breach; requirements. Notice must be made in the most expedient time possible and without unreasonable delay if an investigation determines that the misuse of information has occurred or is reasonably likely to occur. If notice must be made to more than 1,000 consumers at one time, consumer-reporting agencies must also be notified
<b>Kentucky</b>	2006 Proposed HB 4 (passed house)						
<b>Louisiana</b>	La. Rev. Stat. § 51:3071 et seq. Effective Date: 1-1- 2006	1) Encryption 2) Redaction	1) Notification is not required if after a reasonable investigation the person or business determines that there is no reasonable likelihood of harm to customers. 2) Includes substitute notice provisions,	Right to Private action.	"Breach of the security of the system" means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to personal information maintained by an agency or person.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name or the data element is not encrypted or redacted: (i) Social security number. (ii) Driver's license number. (iii) Account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	The notification shall be made in the most expedient time possible and without unreasonable delay

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
Maine	Me. Rev. Stat. tit. 10 §§ 1347 et seq. Effective Date: 1-31-2006	1) Encryption 2) Redaction	1) Notice is required if an investigation determines that misuse of the personal information has occurred or if it is reasonably possible that misuse will occur 2) Contains substitute notice provisions	1) AG shall enforce this chapter. 2) Civil violation. A person that violates this chapter commits a civil violation and is subject to one or more of the following: A. A fine of not more than \$500 per violation, up to a maximum of \$2,500 for each day the person is in violation of this chapter, Cumulative effect. The rights and remedies available under this section are cumulative and do not affect or prevent rights and remedies available under federal or state law.	"Breach of the security of the system" or "security breach" means unauthorized acquisition of an individual's computerized data that compromises the security, confidentiality or integrity of personal information of the individual maintained by person. Good faith acquisition of personal information by an employee or agent of a person on behalf of the person is not a breach of the security of the system if the personal information is not used for or subject to further unauthorized disclosure.	"Personal information" means an individual's first name, or first initial, and last name in combination with any one or more of the following data elements: A. Social security number; B. Driver's license number or state identification card number; C. Account number, credit card number or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes or passwords; D. Account passwords or personal identification numbers or other access codes; or E. Any of the data elements contained in paragraphs A to D when not in connection with the individual's first name, or first initial, and last name, if the information if compromised would be sufficient to permit a person to fraudulently assume or attempt to assume the identity of the person whose information was compromised.	Notice must be made as expeditiously as possible and without unreasonable delay

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<b>Maryland</b>	Md. Code, Com. Law § 14-3501 et seq. Effective 1-1-2008	1) Encryption 2) Redaction  Entities covered by and in compliance with the following acts are deemed in compliance 3) Gramm-Leach-Bliley Act, 4) Fair and Accurate Transactions Act 5) Federal Interagency Guidelines Establishing Information Security Standards 6) Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice	Must notify A.G. before notice is sent to residents  14-3502 (b) includes record destruction requirements  If after the investigation is concluded, the business determines that notification is not required, the business shall maintain records that reflect its determination for 3 years.  Includes substitute notice provisions	AG may bring action  A violation of this subtitle: is an unfair or deceptive trade practice within the Meaning of title 13 of this article; and is subject to the enforcement and penalty provisions contained in title 13 of this article.	<b>"Breach of the security of a system"</b> means the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of the personal information maintained by a business.  Good faith acquisition by an employee or agent does not constitute a breach	Personal information means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name or the data elements are not or otherwise protected by another method that renders the information unreadable or unusable:  (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account. (d) An individual tax payer ID number	Notification shall include: (1) A description of the categories of information that were acquired by an unauthorized person; (2) Contact information for the business; (3) The toll-free telephone numbers and addresses for the major consumer reporting agencies; and (4) (i) The toll-free telephone numbers, addresses, and website addresses for: 1. The Federal Trade Commission; and 2. The Office of the Attorney General; and ii) A statement that an individual can obtain information from these sources about steps the individual can take to avoid identity theft.  <b>Notification to Office of the Attorney General.- Prior to giving the notification required under subsection (b) of this section and subject to subsection (d) of this section, a business shall provide notice of a breach of the security of a system to the Office of the Attorney General.</b>
<b>Massachusetts</b>	2007 H.B 4144, Chapter 82 (93h)  Effective date: 2-3-2008  Chapter 93I - Record Destruction	1) Encryption - <b>Must be 128 bit or higher process</b>	Contains requirements for disposition and destruction of records	<b>Breach Reporting</b> - The attorney general may bring an action pursuant to section 4 of chapter 93A against a person or otherwise to remedy violations of this chapter and for other relief that may be appropriate.  <b>Disposition and destruction of records</b> - Civil fine of not more than \$100 per data subject affected, provided said fine shall not exceed \$50,000 for each instance of improper disposal.	Breach of security, the unauthorized acquisition or unauthorized use of unencrypted data or, encrypted electronic data and the confidential process or key that is capable of compromising the security, confidentiality, or integrity of personal information, maintained by a person or agency that creates a substantial risk of identity theft or fraud against a resident of the commonwealth. A good faith but unauthorized acquisition of personal information by a person or agency, or employee or agent thereof, for the lawful purposes of such person or agency, is not a breach of security unless the personal information is used in an unauthorized manner or subject to further unauthorized disclosure.	Personal information a resident's first name and last name or first initial and last name in combination with any 1 or more of the following data elements that relate to such resident:  (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, <b>with or without</b> any required security code, access code, personal identification number or password, that would permit access to a resident's financial account.	1) Written Notice must be provided to the: a) attorney general, b) director of consumer affairs and business regulation, c) Resident - The notice provided to the resident shall include, the consumer's right to obtain a police report, how a consumer requests a security freeze and the necessary information to be provided when requesting the security freeze, and any fees required to be paid to any of the consumer reporting agencies  2) Substitute notice acceptable if cost of written notice will exceed \$250,000.00 or 500,000 residents

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
<b>Michigan</b>	MI § 445.61 et seq. 2006 S.B. 309, Public Act 566 Effective Date: 6-29-2007	1) HIPAA Covered Entities are excluded. 2) GLB Covered Entities are excluded. 3) Encrypted 4) Redaction	Contains substitute notice provisions	1) Enforcement is allowed by the AG or a prosecuting attorney. 2) Persons or agencies who fail to provide notice may be ordered to pay a civil fine of not more than \$250.00 for each failure to provide notice, capped at \$750,000.00 per security breach. 3) Criminal penalties for notice of a security breach that has not occurred, where such notice is given with the intent to defraud. The offense is a misdemeanor, punishable by imprisonment for not more than 30 days or a fine of not more than \$250.00 per violation (or both).	"Security breach" means the unauthorized access and acquisition of data that compromises the security or confidentiality of personal information maintained by a person or agency as part of a database of personal information regarding multiple individuals.	"Personal information" means the first name or first initial and last name linked to 1 or more of the following data elements of a resident of this state: (i) Social security number. (ii) Driver license number or state personal identification card number. (iii) Demand deposit or other financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to any of the resident's financial accounts.	Written notice made to the individual without unreasonable delay. If the agency determines that the security breach has not or is not likely to cause substantial loss or injury to, or result in identity theft reporting is not required
<b>Minnesota</b>	Minn. Stat. § 325E.61, § 609.891 Effective Date: 1-1-2006	1) HIPAA Covered Entities excluded. 2) Encryption	Requires notification of consumer reporting agencies if notice is provided to more than 500 people.	AG may bring action	"Breach of the security of the data" means unauthorized acquisition of data maintained by a state agency that compromises the security and classification of the data.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or Minnesota identification card number; or (3) account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	1) Without unreasonable delay 2) Must notify all credit reporting agencies within 48 hours if more than 500 people effected
<b>Mississippi</b>	2007 Proposed S.B. 2089						
<b>Missouri</b>	2006 Proposed S.B. 506						
<b>Montana</b>	Montana Code Annotated 2005 30-14-1701et seq. Effective Date: 3-1-2006	Encryption	1) Notification required if "... causes ... loss or injury to a Montana resident ..." 2) Includes substitute notice provisions, see statute for detail. 3) Contains records destruction provisions. 4) Includes substitute notice provisions	1) AG may bring action, 2) State may enjoin violations and impose civil penalties	"Breach of the security of the data system" means unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by the person or business and causes or is reasonably believed to cause loss or injury to a Montana resident.	"Personal information" means an individual's first name, first initial and last name, or any middle name and last name, in combination with any one or more of the following data elements when the data elements are not encrypted: (a) Social security number. (b) Driver's license number or state identification Card number. (c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account	Notice must be provided without unreasonable delay

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
Nebraska	Neb. Rev Stat 87-801 et. seq. Effective Date: 7-13-2006	1) Encryption 2) Redaction 3) Data otherwise altered by any method or technology in such a manner that the name or data elements are unreadable	Includes substitute notice provisions	AG may bring action	"Breach of the security of the system" means the unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by an individual or a commercial entity.	"Personal information" means a Nebraska resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident: (a) Social security number. (b) Driver's license number or state identification Card number. (c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account (d) Unique biometric data, such as a fingerprint, voice print, or retina or iris image, or other unique physical representation.	
Nevada	Nevada Revised Statute 603A.010 et seq. Effective Date: 1-1-2006	1) Encryption 2) GLB Covered Entities	Requires business to encrypt all transmissions other than faxes outside of the secure system of the business. Requirement effective 10-1-2008	AG may bring action	"Breach of the security of the system data" means unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by the data collector.	"Personal information" means a natural person's first name or first initial and last name in combination with any one or more of the following data elements: 1. Social security number or employer identification number. 2. Driver's license number or identification card number. 3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.	1) Notice must be provided without unreasonable delay 2) must also notify credit reporting agencies if more than 1,000 people
New Hampshire	N.H. RS 359-C:19 et seq. Effective Date: 1-1-2007	Encryption	1) Notice must be made if the determination is that misuse of the information has occurred or is reasonably likely to occur, or if a determination cannot be made 2) Includes substitute notice provisions, see statute for detail.	Any person injured by any violation under this subdivision may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages. If the court finds that the act or practice was a willful or knowing violation of this chapter, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court.	"Security breach" means unauthorized acquisition of computerized data that compromises the security or confidentiality of personal information maintained by a person doing business in this state.	"Personal information" means an individual's first name or initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number. (2) Driver's license number or other government identification number. (3) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.	1) Notify the affected individuals as soon as possible 2) Shall notify the New Hampshire attorney general's office. The notice shall include the anticipated date of the notice to the individuals and the approximate number of individuals in this state who will be notified. 3) If a person is required to notify more than 1,000 consumers of a breach of security pursuant to this section, the person shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis,

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
<b>New Jersey</b>	N.J. Stat. 56:8-163 Effective Date: 1-1-2006	1) Encryption 2) Other method or technology that renders the personal information unreadable or unusable.	1) Notification not required if the business establishes that misuse of the information is not reasonably possible. 2) Requires all security breaches to be reported to the State Police before notifying customers. 3) Contains data destruction provisions.	1) Right to private action. 2) AG shall enforce	"Breach of security" means unauthorized access to electronic files, media or data containing personal information that compromises the security, confidentiality or integrity of personal information when access to the personal information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable.	"Personal information" means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; or (3) account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	1) The disclosure shall be made in the most expedient time possible and without unreasonable delay 2) Report the breach of security and any information pertaining to the breach to the Division of State Police in the Department of Law and Public Safety 3) Breach of more than 1,000 persons at one time, the business or public entity shall also notify all consumer reporting agencies that compile or maintain files on consumers on a nationwide basis
<b>New Mexico</b>	No Proposal						
<b>New York</b>	N.Y. Bus. Law § 899-aa Effective Date: 12-8-2005	Encryption	This law pre-empts any City or Local laws	1) AG bring action 2) If the business acted recklessly, the court may impose a civil penalty of the greater of five thousand dollars or up to ten dollars per instance of failed notification, provided that the latter amount shall not exceed one hundred fifty thousand dollars.	"Breach of the security of the system" shall mean unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a state entity.	"Private information" shall mean personal information in combination with any one or more of the following data elements (1) social security number; (2) driver's license number or non-driver identification card number; or (3) account number, credit or debit card number, in combination with any required security code, access code or password which would permit access to an individual's financial account.	1) The disclosure shall be made in the most expedient time possible and without unreasonable delay. 2) In the event that more than five thousand new York residents are to be notified at one time, the person or business shall also notify consumer reporting agencies
<b>North Carolina</b>	N.C. Gen. Stat § 75-65 Effective Date: 10-1-2006	Encryption	Applies to information in any form, includes any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics (whether computerized, paper, or otherwise)	No private right of action may be brought by an individual for a violation of this section unless such individual is injured as a result of the violation. (j) Causes of action arising under this Article may not be assigned.	"Security breach" – An incident of unauthorized access to and acquisition of records or data containing personal information where unauthorized or illegal use of the personal information has occurred or is reasonably likely to occur. "Records" – Any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.	"Identifying information" includes: Social security numbers, Drivers license, State identification card, or passport, Checking account numbers, Savings account numbers, Credit card numbers, Debit card number, Personal Identification (PIN) Code as defined in G.S. 14&#8209;113.8(6), Electronic identification. Any other numbers or information that can be used to access a person's financial resources.	1) The disclosure notification shall be made without unreasonable delay, 2) Notice to more than 1,000 consumers at one time pursuant to this section, the business shall notify, without unreasonable delay, the Consumer Protection Division of the Attorney General's Office and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis

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<b>North Dakota</b>	N.D. Cent. Code § 51-30-01 et seq. Effective Date: 6-1-2005	Encryption		1) The attorney general may impose by order and collect a civil penalty against a person found in an adjudicative proceeding to have violated a cease and desist order issued pursuant to this section, in an amount not more than one thousand dollars for each violation. 2) The attorney general may bring an action in district court to recover penalties under this section.	"Breach of the security system" means unauthorized acquisition of computerized data when access to personal information has not been secured by encryption or by any other method or technology that renders the electronic files, media, or data bases unreadable or unusable.	"Personal information" means an individual's first name or first initial and last name in combination with any of the following data elements: (1) The individual's social security number; (2) The operator's license number assigned to an individual by the department of transportation (3) A nondriver color photo identification card number assigned to the individual by the department of transportation (4) The individual's financial institution account number, credit card number, or debit card number in combination with any required security code, access code or password that would permit access to an individual's financial accounts; (5) The individual's date of birth; (6) The maiden name of the individual's mother; (7) An identification number assigned to the individual by the individual's employer; or (8) The individual's digitized or other electronic signature	The disclosure must be made in the most expedient time possible and without unreasonable delay
<b>Ohio</b>	Ohio Rev. Code § 1349.19, §1347 et seq. Effective Date: 2-17-2006	1) Encryption 2) Redaction	Must report on breaches that are reasonably believed to have caused, or reasonably are believed will cause a material risk of ID theft or other fraud.	For each day that the state agency, agency of a political subdivision, or person has intentionally or recklessly failed to comply with the applicable section, subject to divisions (A)(1)(b) and (c) of this section, a civil penalty of up to one thousand dollars for each day the agency or person fails to comply with the section; Day 61 -day 90 penalty is \$5000 per day. Day 91 forward is \$10,000.00 per day	"Breach of the security of the system" means unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of personal information owned or licensed by a state agency or an agency of a political subdivision and that causes, reasonably is believed to have caused, or reasonably is believed will cause a material risk of identity theft or other fraud to the person or property of a resident of this state	"Personal information" means, an individual's name, consisting of the individual's first name or first initial and last name, in combination with and linked to any one or more of the following data elements, when the data elements are not encrypted, redacted, or altered by any method or technology in such a manner that the data elements are unreadable: (i) Social security number; (ii) Driver's license number or state identification card number; (iii) Account number or credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to an individual's financial account.	1) Notification must be made "in the most expedient time possible" and not later than 45 days following discovery or notification of the breach. 2) If more than one thousand residents are involved in a single breach the person shall notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis
<b>Oklahoma</b>	Okla. Stat. § 74 3113.1 Effective Date: 6-8-2006	Applies only to state agencies, boards, commissions, or outer units of subdivisions of state government	applies to government agencies only				

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<b>Oregon</b>	2007 S.B. 583, Chapter 759 Effective Date: 10-01-2007	1) Encryption 2) Redaction 3) other methods that render data elements unusable.	Includes substitute notice provisions	Any person who violates or who procures, aids or abets in the violation of this 2007 Act shall be subject to a penalty of not more than \$1,000 for every violation, which shall be paid to the General Fund of the State Treasury. Every violation is a separate offense and, in the case of a continuing violation, each day's continuance is a separate violation, but the maximum penalty for any occurrence shall not exceed \$500,000. Civil penalties under this section shall be imposed as provided in ORS 183.745.	"Breach of security" means unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by the person.  Good faith acquisition by an employee or agent does not constitute a breach.	"Personal information": (a) Means a consumer's first name or first initial and last name in combination with any one or more of the following data elements, when the data elements are not rendered unusable through encryption, redaction or other methods, or when the data elements are encrypted and the encryption key has also been acquired: (A) Social Security number; (B) Driver license number or state identification card number issued by the Department of Transportation; (C) Passport number or other United States issued identification number; or (D) Financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to a consumer's financial account.  Any combination of elements that would be sufficient for a person to commit identity theft	Notification shall be made in the most expeditious time possible and without unreasonable delay.  Notification is not required if, after appropriate investigation or after consultation with relevant federal, state or local agencies responsible for law enforcement, the person determines that no reasonable likelihood of harm to the consumers whose personal information has been acquired has resulted or will result from the breach.
<b>Pennsylvania</b>	73 Pa. Cons. Stat. § 2303 Effective Date: 6-22-2006	1) Encryption 2) Redaction	Includes substitute notice provisions,	The Office of Attorney General shall have exclusive authority to bring an action under the Unfair Trade Practices and Consumer Protection Law for a violation of this act	"Breach of the security of the system." The unauthorized access and acquisition of computerized data that materially compromises the security or confidentiality of personal information maintained by the entity as part of a database of personal information regarding multiple individuals and that causes or the entity reasonably believes has caused or will cause loss or injury to any resident of this Commonwealth	"Personal information." An individual's first name or first initial and last name in combination with and linked to any one or more of the following data elements: Social Security number, Driver's license number or a State identification card number issued in lieu of a driver's license, Financial account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	1) Notice shall be made without unreasonable delay. 2) If more than 1,000 persons at one time, the entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis
<b>Rhode Island</b>	R.I. Gen. Laws § 11-49.2-1 et seq. Effective Date: 3-1-2006	Encryption	1) Notification of a breach is not required if, after an appropriate investigation or after consultation with relevant federal, state, or local law enforcement agencies, a determination is made that the breach has not and will not likely result in a significant risk of identity theft to the individuals whose personal information has been acquired. 2) Includes substitute notice provisions,	Each violation is a civil violation for which a penalty of not more than a hundred dollars (\$100) per occurrence and not more than twenty-five thousand dollars (\$25,000) may be adjudged against a defendant.	"Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number. (2) Driver's license number or Rhode Island identification card number. (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.	The disclosure shall be made in the most expedient time possible and without unreasonable delay.

**Information System Security Breach Notification  
Survey of State Laws**

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
<b>South Carolina</b>	2008 S.B. 453, Act 190 37-20-110 et seq. Effective 12-31-2008	Information that was not rendered unusable through: 1) Encryption 2) Redaction, or 3) other methods	Includes records disposition provisions	A resident of this State who is injured by a violation of this section, in addition to and cumulative of all other rights and remedies available at law, may: 1) institute a civil action to recover damages in case of a willful and knowing violation; 2) institute a civil action that must be limited to actual damages resulting from a violation in case of a negligent violation of this section; 3) seek an injunction to enforce compliance; and 4) recover attorney's fees and court costs, if successful	'Security breach' means an incident of unauthorized access to and acquisition of records or data that was not rendered unusable through encryption, redaction, or other methods containing personal identifying information that compromises the security, confidentiality, or integrity of personal identifying information maintained by a person when illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to the consumer.	'Personal identifying information' means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted: (1) social security numbers; (2) driver's license numbers; (3) checking account numbers; (4) savings account numbers; (5) credit card numbers; (6) debit card numbers; (7) personal identification numbers; (8) electronic identification numbers; (9) digital signatures; (10) other numbers or information which may be used to access another person's financial resources; or (11) identifying documentation that defines a person other than the person presenting the document. This includes, but is not limited to, passports, driver's licenses, birth certificates, immigration documents, and state-issued identification cards.	The disclosure must be made in the most expedient time possible and without unreasonable delay.
<b>South Dakota</b>	No Proposal						
<b>Tennessee</b>	Tenn. Code § 47-18-2107 Effective Date: 7-1-2005	Encryption	1) Substitute notice provisions 2) Contains a data destruction rule	Right of Private Action	"Breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the information holder.	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number. (2) Drivers license number or (3) Account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.	1) The disclosure shall be made in the most expedient time possible and without unreasonable delay. 2) If more than 1000 persons you must notify Consumer Reporting Agencies

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<b>Texas</b>	Texas Bus. & Com. Code 48.001 et seq. Effective Date: 9-1-2005	Encryption	1) Substitute notice provisions 2) Contains a data destruction rule	1) Provides for Civil penalties 2) AG may enjoin activities 3) Provides for equitable relief for ID theft victims and a declaration that an individual is an ID theft victim.	"Breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person	"Sensitive personal information": (A) means an individual's first name or first initial and last name in combination with any one or more of the following items: (i) social security number; (ii) driver's license number or government-issued identification number; or (iii) account number or credit or debit card number in combination with any required security code, access code or password that would permit access to an individual's financial account	1) The disclosure shall be made as quickly as possible. 2) Requires credit reporting agencies to be notified if more than 10,000 persons are affected. 3) Includes substitute notice provisions
<b>Utah</b>	Utah Code 13-44-101 et seq. Effective Date: 1-1-2007	1) Encryption 2) Protected by another method that renders the data unreadable or unusable.	1) Notification required if an investigation reveals that the misuse of personal information for identity theft or fraud purposes has occurred, or is reasonably likely to occur 2) Contains a data destruction rule	1) The AG may enforce this chapter's provisions. 2) Provides for Civil Penalties 3) The attorney general may seek injunctive relief to prevent future violations	"Breach of system security" means an unauthorized acquisition of computerized data maintained by a person that compromises the security, confidentiality, or integrity of personal information.	"Personal information" means a person's first name or first initial and last name, combined with any one or more of the following data elements: (i) Social Security number; (ii) (A) financial account number, or credit or debit card number; and (B) any required security code, access code, or password that would permit access to the person's account; or (iii) driver license number or state identification card number.	If the investigation reveals that the misuse of personal information for identity theft or fraud purposes has occurred, or is reasonably likely to occur, notification must be provided in the most expedient time possible without unreasonable delay
<b>Vermont</b>	Vt. Stat. Tit. 9 § 2430 et seq. Effective Date: 1-1-2007	1) Encryption 2) Redaction 3) Data otherwise altered by any method or technology in such a manner that the name or data elements are unreadable	1) Notice need not be given if the data collector establishes that misuse is not reasonably possible and provides notice of that determination and an explanation to the AG or to the department of banking, insurance, securities, and health care administration, as applicable. 2) Substitute notice provisions	AG/Regulatory agencies have sole enforcement powers	"Security breach" means unauthorized acquisition or access of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the data collector	"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons: (i) Social Security number; (ii) Motor vehicle operator's license number or nondriver identification card number; (iii) Financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords; (iv) Account passwords or personal identification numbers or other access codes for a financial account.	Notice of the breach shall be made in the most expedient time possible and without unreasonable delay

State	Citation	Exceptions	Comments	Penalties for Non-Compliance	Breach Defined	Personal Information Defined	Reporting Requirements
Virginia	Code of Virginia 18.2-186.6	1) Encryption 2) Redaction	In the event an individual or entity provides notice to more than 1,000 persons at one time pursuant to this section, the individual or entity shall notify, without unreasonable delay, the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. § 1682(a)(p), of the timing, distribution, and content of the notice.	The Office of the Attorney General may impose a civil penalty not to exceed \$150,000 per breach of the security of the system or a series of breaches of a similar nature that are discovered in a single investigation.  <b>Nothing in this section shall limit an individual from recovering direct economic damages from a violation of this section.</b>	“Breach of the security of the system” means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of the Commonwealth.  Good faith acquisition by an employee or agent does not constitute a breach	Personal information” means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted: 1. Social security number; 2. Driver’s license number or state identification card number issued in lieu of a driver’s license number; or 3. Financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident’s financial accounts.	Disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to the Office of the Attorney General and any affected resident of the Commonwealth without unreasonable delay.  The notice shall include: (1) The incident in general terms (2) The type of personal information that was subject to the unauthorized access and acquisition 3) The general acts of the individual to protect the information from further unauthorized access 4) A telephone number that the person may call for further information and assistance 5) Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports
Washington	Wash. Rev. Code 19.255.010 Effective Date: 7-24-2005	Encryption. Safe Harbor: "shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity"	A person or business under this section shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.		Unauthorized acquisition or access of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business.	Individuals name, or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: SSN, Driver's License Number/WA ID card number, or account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account.	Must provide notice in the most expedient time possible and without unreasonable delay
West Virginia	2006 Proposed HB 4551						
Wisconsin	Wis Stat 895.507 Effective Date: 3-31-2006	1) HIPAA Covered Entities excluded. 2) GLB Covered Entities excluded. 3) Encryption 4) Redaction 5) Data altered in a manner that renders the element unreadable	1) Notification is not required if the breach "does not create a material risk of identity theft or fraud to the subject of the personal information. 2) Requires credit-reporting agencies to be notified if more than 1,000 persons must be notified.		If entity knows that personal information in the entity's possession has been acquired by person whom the entity has not authorized to acquire the personal information.	Individual's last name and the individual's first name or first initial, in combination with and linked to any of the following elements: SSN, Driver's License number of state ID number; the number of the individual's financial account number including a credit/debit card # or any security code, access code, or password that would permit access to the individual's financial account; DNA profile, unique biometric data, including fingerprint, voice print, retina/iris image or any other unique physical representation."	1) Must provide notice within 45 days. 2) If more than 1,000 persons, must notify credit reporting agencies also

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Wyoming	Wyo. Stat. § 40-12-501 to -509 Effective: July 1, 2007	Redaction Encryption implied	When company 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 identifying information has been or will be misused.	The attorney general may bring an action in law or equity to address any violation of this section and for other relief that may be appropriate to ensure proper compliance with this section, to recover damages, or both.	1) "Breach of the security of the data system" means unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of personal identifying information maintained by a person or business and causes or is reasonably believed to cause loss or injury to a resident of this state.  2) If the investigation determines that the misuse of personal identifying information about a Wyoming resident has occurred or is reasonably likely to occur, the individual or the commercial entity shall give notice as soon as possible to the affected Wyoming resident.	Personal identifying information means the first name or first initial and last name of a person in combination with one (1) or more of the following data elements when either the name or the data elements are not redacted: (A) Social security number; (B) Driver's license number or Wyoming identification card number; (C) Account number, credit card number or debit card number in combination with any security code, access code or password that would allow access to a financial account of the person; (D) Tribal identification card; or (E) Federal or state government issued identification card.	1) Notice shall be made in the most expedient time possible and without unreasonable delay. 2) Notice to consumers may be provided by one (1) of the following methods: (i) Written notice; (ii) Electronic mail notice; (iii) Substitute notice if the person demonstrates: (A) That the cost of providing notice would exceed ten thousand dollars (\$10,000.00) for Wyoming-based persons or businesses, and two hundred fifty thousand dollars (\$250,000.00) for all other businesses operating but not based in Wyoming 3) Notice shall include a toll-free number that the individual may use to contact the person collecting the data, or his agent; and from which the individual may learn the toll-free contact telephone numbers and addresses for the major credit reporting agencies.