

1-9

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

GOOD/HARWELL-BEACH/SANDERS  
MAY 21, 2013

\_\_\_\_\_  
CLERK OF THE HOUSE

---

REP. WHITE PROPOSES THE FOLLOWING AMENDMENT  
No. TO S. 334 (COUNCIL\MS\334C008.MS.AHB13):

REFERENCE IS TO PRINTER'S DATE 4/11/13-S.

**AMEND THE BILL, AS AND IF AMENDED, BY  
STRIKING THE WHEREAS CLAUSES IN THEIR  
ENTIRETY BEFORE THE ENACTING WORDS.**

**AMEND THE BILL FURTHER, BY STRIKING ALL  
AFTER THE ENACTING WORDS AND INSERTING:**

**/SECTION 1. ARTICLE 1, CHAPTER 11, TITLE  
1 OF THE 1976 CODE IS AMENDED BY ADDING:**

**“SECTION 1-11-398. (A) AS USED IN THIS  
SECTION:**

**(1)‘ELIGIBLE PERSON’ MEANS A TAXPAYER THAT FILED A RETURN WITH THE DEPARTMENT OF REVENUE FOR ANY TAXABLE YEAR AFTER 1997 AND BEFORE 2013, WHETHER BY PAPER OR ELECTRONIC TRANSMISSION, OR ANY PERSON WHOSE PERSONALLY IDENTIFIABLE INFORMATION WAS CONTAINED ON THE RETURN OF ANOTHER ELIGIBLE PERSON, INCLUDING MINOR DEPENDENTS.**

**(2)‘IDENTITY THEFT PROTECTION’ MEANS PRODUCTS AND SERVICES DESIGNED TO PREVENT AN INCIDENT OF IDENTITY FRAUD OR IDENTITY THEFT OR OTHERWISE PROTECT THE PRIVACY OF A PERSON’S PERSONAL IDENTIFYING INFORMATION, AS DEFINED IN SECTION 16-13-510(D), BY PRECLUDING A THIRD PARTY FROM GAINING UNAUTHORIZED ACQUISITION OF ANOTHER’S PERSONAL IDENTIFYING INFORMATION TO OBTAIN FINANCIAL RESOURCES OR OTHER PRODUCTS, BENEFITS OR SERVICES.**

**(3)‘IDENTITY THEFT RESOLUTION SERVICES’ MEANS PRODUCTS AND SERVICES**

**DESIGNED TO ASSIST PERSONS WHOSE PERSONAL IDENTIFYING INFORMATION, AS DEFINED BY SECTION 16-13-510(D), WAS OBTAINED BY A THIRD PARTY, WHEREBY MINIMIZING THE EFFECTS OF THE IDENTIFY FRAUD OR IDENTITY THEFT INCIDENT AND RESTORING THE PERSON'S IDENTITY TO PRE-THEFT STATUS.**

**(4)'PERSON' MEANS AN INDIVIDUAL, CORPORATION, FIRM, ASSOCIATION, JOINT VENTURE, PARTNERSHIP, LIMITED LIABILITY CORPORATION, OR ANY OTHER BUSINESS ENTITY.**

**(5)'PERSONALLY IDENTIFIABLE INFORMATION' MEANS INFORMATION THAT CAN BE USED TO UNIQUELY IDENTIFY, CONTACT, OR LOCATE A SINGLE PERSON OR CAN BE USED WITH OTHER SOURCES TO UNIQUELY IDENTIFY A SINGLE INDIVIDUAL, INCLUDING, BUT NOT LIMITED TO, SOCIAL SECURITY NUMBERS, DEBIT CARD NUMBERS, CREDIT CARD NUMBERS, AND BANK ACCOUNT NUMBERS.**

**(B) THE STATE SHALL PROVIDE IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES TO EACH ELIGIBLE PERSON.**

**THESE SERVICES MUST BE FREE OF CHARGE, FOR A TERM OF FIVE YEARS, AND AVAILABLE ON OR BEFORE OCTOBER 25, 2013.**

**(C)(1) THE STATE BUDGET AND CONTROL BOARD SHALL PROCURE SERVICES PURSUANT TO SUBSECTION (B) IN THE MOST COST EFFICIENT MANNER POSSIBLE. FOLLOWING THE SELECTION OF A VENDOR, THE CONTRACT SHALL BE EXECUTED BY THE VENDOR AND THE DEPARTMENT OF REVENUE. THE BUDGET AND CONTROL BOARD, WITH ASSISTANCE FROM THE DEPARTMENT OF REVENUE, SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY BY FEBRUARY 1, 2018, CONTAINING FINDINGS AND RECOMMENDATIONS CONCERNING THE ONGOING RISK OF IDENTITY THEFT TO ELIGIBLE PERSONS, THE SERVICES THE CONTRACT OR CONTRACTS PROVIDED, AND THE NEED, IF ANY, FOR EXTENDING THE PERIOD FOR THE CONTRACTED SERVICES, INCLUDING THE LEVELS OF SERVICE REQUIRED BEYOND THE INITIAL FIVE-YEAR PERIOD.**

**(2) NO SERVICE PROVIDED PURSUANT TO SUBSECTION (B) MAY BE PROCURED FOR A COST IF THE SAME SERVICE IS AVAILABLE TO ELIGIBLE PERSONS FOR FREE UNDER STATE OR FEDERAL LAW.**

**(D)(1) IN ORDER TO ENSURE THAT EVERY ELIGIBLE PERSON OBTAINS IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES PURSUANT TO SUBSECTION (B), TO THE EXTENT ALLOWED BY FEDERAL OR STATE LAW, INCLUDING SECTION 30-2-320, THE DEPARTMENT OF REVENUE WORKING WITH THE CONTRACTED VENDOR SHALL DEVELOP AND IMPLEMENT A POLICY TO MAKE ENROLLMENT AS SIMPLE AS POSSIBLE FOR EACH ELIGIBLE PERSON. THE POLICY MAY INCLUDE, BUT IS NOT LIMITED TO, AUTOMATIC ENROLLMENT, PROVIDED THAT THERE IS AN OPT-OUT MECHANISM FOR OTHERWISE ELIGIBLE PERSONS, ENROLLMENT AUTHORIZATION ON A TAX RETURN FILED IN THIS STATE.**

**(2) BY MARCH FIFTEENTH OF EACH YEAR, THE DEPARTMENT OF REVENUE SHALL ISSUE A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY DETAILING THE NUMBER OF ELIGIBLE PERSONS**



THAT ENROLLED AND THE NUMBER OF PEOPLE ELIGIBLE TO ENROLL IN THE IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES PROGRAM PROCURED PURSUANT TO SUBSECTION (B) FOR THE MOST RECENT TAX YEAR. THE REPORT ALSO MUST DETAIL EFFORTS TO INCREASE ENROLLMENT IN THE PROGRAMS.

(E) NOTHING IN THIS SECTION CREATES A PRIVATE RIGHT OF ACTION OR AN EXPENDITURE OF FUNDS.”

**SECTION 2.A. ARTICLE 9, CHAPTER 6, TITLE 12 OF THE 1976 CODE IS AMENDED BY ADDING:**

“SECTION 12-6-1141. (A) IN ADDITION TO THE DEDUCTIONS ALLOWED IN SECTION 12-6-1140, THERE IS ALLOWED A DEDUCTION IN COMPUTING SOUTH CAROLINA TAXABLE INCOME OF AN INDIVIDUAL THE ACTUAL COSTS, BUT NOT EXCEEDING THREE HUNDRED DOLLARS FOR AN INDIVIDUAL TAXPAYER, AND NOT EXCEEDING ONE THOUSAND DOLLARS FOR A JOINT RETURN OR A RETURN CLAIMING DEPENDENTS, INCURRED BY A TAXPAYER IN THE TAXABLE YEAR TO PURCHASE A MONTHLY OR ANNUAL CONTRACT OR SUBSCRIPTION FOR IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES. THE DEDUCTION ALLOWED BY THIS ITEM MAY NOT BE CLAIMED BY AN INDIVIDUAL IF THE INDIVIDUAL DEDUCTED THE SAME ACTUAL COSTS AS A BUSINESS EXPENSE OR IF THE TAXPAYER IS ENROLLED IN THE IDENTITY THEFT PROTECTION AND IDENTITY THEFT RESOLUTION SERVICES PROGRAM PURSUANT TO SECTION 1-11-398(B). FOR PURPOSES OF THIS ITEM, ‘IDENTITY THEFT PROTECTION’ AND ‘IDENTITY THEFT RESOLUTION SERVICES’ HAVE THE SAME MEANING AS PROVIDED IN SECTION 1-11-398.

(B) BY MARCH FIFTEENTH OF EACH YEAR, THE DEPARTMENT SHALL ISSUE A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY DETAILING THE NUMBER OF TAXPAYERS CLAIMING THE DEDUCTION ALLOWED BY THIS ITEM IN THE MOST RECENT TAX YEAR

FOR WHICH THERE IS AN ACCURATE FIGURE, AND THE TOTAL MONETARY VALUE OF THE DEDUCTIONS CLAIMED PURSUANT TO THIS ITEM IN THAT SAME YEAR.

(C) THE DEPARTMENT SHALL PRESCRIBE THE NECESSARY FORMS TO CLAIM THE DEDUCTION ALLOWED BY THIS SECTION. THE DEPARTMENT MAY REQUIRE THE TAXPAYER TO PROVIDE PROOF OF THE ACTUAL COSTS AND THE TAXPAYER'S ELIGIBILITY."

B. THIS SECTION TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND FIRST APPLIES TO TAX YEARS BEGINNING AFTER 2012.

SECTION 3. A. TITLE 1 OF THE 1976 CODE IS AMENDED BY ADDING:

## **"CHAPTER 36**

### **COMMISSION ON INFORMATION TECHNOLOGY**

SECTION 1-36-10. (A) AS USED IN THIS CHAPTER:

(1) 'COMMISSION' MEANS THE COMMISSION ON INFORMATION TECHNOLOGY.

(2) 'COMMITTEE' MEANS THE JOINT INFORMATION TECHNOLOGY COMMITTEE ESTABLISHED IN THIS CHAPTER.

(3) 'GOVERNMENTAL BODY' MEANS A STATE GOVERNMENT DEPARTMENT, COMMISSION, COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION, COLLEGE, UNIVERSITY, TECHNICAL SCHOOL, AGENCY, AUTHORITY, OR GOVERNMENT CORPORATION. GOVERNMENTAL BODY DOES NOT INCLUDE LOCAL POLITICAL SUBDIVISIONS SUCH AS COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, OR PUBLIC SERVICE OR SPECIAL PURPOSE DISTRICTS.

(4) 'INFORMATION TECHNOLOGY' MEANS TECHNOLOGY RELATED GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO,

**ELECTRONIC TECHNOLOGY AND DATA PROCESSING SYSTEMS AND SERVICES, TELECOMMUNICATIONS AND NETWORK GOODS AND SERVICES, SYSTEM DESIGN AND ANALYSIS, COMPUTER PROGRAMMING, INFORMATION SECURITY GOODS AND SERVICES, INFORMATION STORAGE AND RETRIEVAL, ELECTRONIC COMMERCE, INFORMATION MANAGEMENT, MICROPROCESSORS, SOFTWARE, OFFICE SYSTEMS, ANY SERVICES RELATED TO THE FOREGOING, AND CONSULTING OR OTHER SERVICES FOR THE SUPPORT, DESIGN OR REDESIGN OF INFORMATION TECHNOLOGY SUPPORTING BUSINESS PROCESSES, AND ALSO MEANS INFORMATION TECHNOLOGY AS THAT TERM IS DEFINED IN SECTION 11-35-310(1).**

**SECTION 1-36-20. (A) THERE IS HEREBY ESTABLISHED THE COMMISSION ON INFORMATION TECHNOLOGY. THE COMMISSION SHALL BE MANAGED AND ADMINISTERED BY AN EXECUTIVE DIRECTOR WHO SHALL BE APPOINTED BY MAJORITY VOTE OF THE JOINT INFORMATION TECHNOLOGY COMMITTEE. THE EXECUTIVE DIRECTOR SHOULD POSSESS KNOWLEDGE OF INFORMATION TECHNOLOGY AND HAVE DEMONSTRATED ADMINISTRATIVE ABILITY.**

**(B) WITHIN THE COMMISSION ON INFORMATION TECHNOLOGY, THERE IS CREATED THE JOINT INFORMATION TECHNOLOGY COMMITTEE. THE COMMITTEE SHALL SERVE IN A POLICY ADVISORY CAPACITY TO THE DEPARTMENT.**

**SECTION 1-36-30. THE COMMISSION MAY BE ORGANIZED IN A MANNER THE EXECUTIVE DIRECTOR CONSIDERS MOST APPROPRIATE TO CARRY OUT THE DUTIES, RESPONSIBILITIES, AND AUTHORITIES ASSIGNED TO IT AND ITS VARIOUS DIVISIONS. UPON AUTHORIZATION BY THE GENERAL ASSEMBLY IN THE ANNUAL APPROPRIATIONS ACT, THE EXECUTIVE DIRECTOR MAY APPOINT ASSISTANTS, DEPUTIES, AND EMPLOYEES NECESSARY TO ADMINISTER THE AFFAIRS OF THE COMMISSION AND MAY PRESCRIBE THEIR DUTIES AND**

**RESPONSIBILITIES. NOTWITHSTANDING THE FOREGOING, THE OPERATING STRUCTURE OF THE COMMISSION MUST INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING THREE DISTINCT DIVISIONS:**

**(1) THE DIVISION OF INFORMATION TECHNOLOGY OPERATIONS, TO BE HEADED BY A CHIEF INFORMATION TECHNOLOGY OFFICER;**

**(2) THE DIVISION OF INFORMATION SECURITY, TO BE HEADED BY A CHIEF INFORMATION SECURITY OFFICER; AND**

**(3) THE DIVISION OF PRIVACY, TO BE HEADED BY A CHIEF PRIVACY OFFICER.**

**SECTION 1-36-40. (A) THERE IS ESTABLISHED A JOINT INFORMATION TECHNOLOGY COMMITTEE. THE COMMITTEE SHALL CONSIST OF SEVEN MEMBERS, APPOINTED AS FOLLOWS:**

**(1) AN INFORMATION TECHNOLOGY PROFESSIONAL OF A CABINET AGENCY APPOINTED BY THE GOVERNOR;**

**(2) ONE CITIZEN MEMBER FROM THE PRIVATE SECTOR APPOINTED BY THE GOVERNOR;**

**(3) ONE CITIZEN MEMBER FROM THE PRIVATE SECTOR APPOINTED BY THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE;**

**(4) ONE CITIZEN MEMBER FROM THE PRIVATE SECTOR APPOINTED BY THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE;**

**(5) ONE CITIZEN MEMBER FROM THE PRIVATE SECTOR APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE;**

**(6) ONE CITIZEN MEMBER FROM THE PRIVATE SECTOR APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND**

**(7) THE CHIEF INFORMATION OFFICER OF ONE OF THE STATE'S THREE RESEARCH UNIVERSITIES, OR THEIR DESIGNEES, SERVING ON A TWO-YEAR ROTATING BASIS, BEGINNING WITH THE CHIEF INFORMATION OFFICER FROM THE UNIVERSITY OF SOUTH CAROLINA-COLUMBIA, FOLLOWED BY THE CHIEF INFORMATION**

OFFICER FROM CLEMSON UNIVERSITY, FOLLOWED BY THE CHIEF INFORMATION OFFICER OF THE MEDICAL UNIVERSITY OF SOUTH CAROLINA.

(B) APPOINTED MEMBERS SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY. MEMBERS WHO SERVE BY VIRTUE OF AN OFFICE SERVE ON THE COMMITTEE EX OFFICIO.

(C) MEMBERS SERVE WITHOUT COMPENSATION, BUT CITIZEN MEMBERS OF THE COMMITTEE MAY RECEIVE MILEAGE AND SUBSISTENCE AUTHORIZED BY LAW FOR MEMBERS OF STATE BOARDS, COMMISSIONS, AND COMMITTEES WHILE ON APPROVED OFFICIAL BUSINESS OF THE COMMITTEE.

(D) CITIZEN MEMBER APPOINTEES MUST NOT BE EMPLOYED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE AND OTHERWISE MUST NOT BE AN EMPLOYEE OR AFFILIATED IN ANY WAY WITH A VENDOR OR POTENTIAL VENDOR OF INFORMATION TECHNOLOGY OR TELECOMMUNICATIONS GOODS OR SERVICES TO THE STATE OR ITS POLITICAL SUBDIVISIONS.

(E) MEMBERS MUST BE KNOWN TO HAVE EITHER SUBSTANTIAL KNOWLEDGE, BACKGROUND, OR EXPERIENCE IN THE USE OR IMPLEMENTATION OR APPLICATION OF INFORMATION TECHNOLOGY OR THE SECURITY OF INFORMATION TECHNOLOGY OR A COMBINATION OF THESE REQUIREMENTS.

(F) THE MEMBERS OF THE COMMITTEE SHALL ELECT A MEMBER TO SERVE AS CHAIRMAN BY MAJORITY VOTE.

**SECTION 1-36-50.** IN ADDITION TO THE RESPONSIBILITIES PROVIDED IN THIS CHAPTER, THE COMMISSION SHALL ESTABLISH AND IMPLEMENT THE SOUTH CAROLINA INFORMATION TECHNOLOGY PLAN AND THE SOUTH CAROLINA INFORMATION SECURITY PLAN, WHICH SHALL CONSIST OF STATEWIDE AND AGENCY-LEVEL PLANS FOR INFORMATION TECHNOLOGY AND INFORMATION SECURITY. FURTHERMORE, THE COMMISSION SHALL ESTABLISH AND IMPLEMENT



**STATEWIDE INFORMATION TECHNOLOGY AND INFORMATION SECURITY  
ENTERPRISE ARCHITECTURE, STANDARDS, POLICIES, AND DIRECTIONS.**

**SECTION 1-36-60. THE COMMISSION SHALL DEVELOP AND ANNUALLY UPDATE A STATEWIDE INFORMATION TECHNOLOGY PLAN. THE PLAN SHALL AT A MINIMUM:**

**(1) DEFINE THE STATE'S STRATEGIC VISION OF ITS INFORMATION TECHNOLOGY PLAN;**

**(2) IDENTIFY INDUSTRY STANDARD METRICS AND MEASURES TO MONITOR SUCCESS OF ACHIEVING THE STATE'S STRATEGIC INFORMATION TECHNOLOGY VISION; AND**

**(3) DEVELOP STATEWIDE POLICIES, PLANS, AND PROCEDURES FOR THE EFFECTIVE MANAGEMENT OF INFORMATION TECHNOLOGY INVESTMENTS, TO INCLUDE CURRENT AND FUTURE INFORMATION TECHNOLOGY NEEDS AND THEIR BUDGETARY IMPLICATIONS.**

**SECTION 1-36-70. (A) BY AUGUST 1, 2014, AND EACH AUGUST FIRST THEREAFTER, EACH GOVERNMENTAL BODY MUST SUBMIT AN INFORMATION TECHNOLOGY PLAN FOR THE COMING FISCAL YEAR TO THE COMMISSION FOR APPROVAL. THE COMMISSION MAY REQUIRE MODIFICATIONS TO THE PLAN THAT DO NOT CONFORM TO THE STATEWIDE INFORMATION TECHNOLOGY PLAN.**

**(B) THE INFORMATION TECHNOLOGY PLAN REQUIRED BY THIS SECTION MUST BE IN THE FORM AND LEVEL OF DETAIL REQUIRED BY THE COMMISSION AND SHALL INCLUDE AT LEAST:**

**(1) THE INFORMATION TECHNOLOGY OBJECTIVES OF THE GOVERNMENTAL BODY;**

**(2) AN INVENTORY OF THE GOVERNMENTAL BODY'S INFORMATION TECHNOLOGY;**

**(3) ANY PERFORMANCE MEASURES USED BY THE GOVERNMENTAL BODY FOR IMPLEMENTING ITS INFORMATION TECHNOLOGY OBJECTIVES;**

**(4) HOW THE GOVERNMENTAL BODY'S DEVELOPMENT OF INFORMATION TECHNOLOGY COORDINATES WITH OTHER STATE AND LOCAL GOVERNMENTAL ENTITIES;**

**(5) THE GOVERNMENTAL BODY'S NEED FOR APPROPRIATIONS FOR INFORMATION TECHNOLOGY; AND**

**(6) THE GOVERNMENTAL BODY'S BUDGET PLANS FOR INFORMATION TECHNOLOGY FOR THE COMING FISCAL YEAR INCLUDING, BUT NOT LIMITED TO, APPROPRIATION AND AUTHORIZATION REQUESTS REGARDLESS OF SOURCE OF FUNDS, FTE ACCOUNTS, TEMPORARY PERSONNEL ACCOUNTS, AND SALARY INFORMATION.**

**SECTION 1-36-80. THE COMMISSION SHALL DEVELOP AND ANNUALLY UPDATE A STATEWIDE INFORMATION SECURITY PLAN. THE PLAN SHALL AT A MINIMUM:**

**(1) IDENTIFY A BEST IN PRACTICE INFORMATION TECHNOLOGY SECURITY GOVERNANCE STRUCTURE;**

**(2) ADOPT CONTROL OBJECTIVES TO MANAGE, IMPLEMENT, AND MAINTAIN THE SECURITY OF INFORMATION TECHNOLOGY SYSTEMS;**

**(3) DEVELOP SECURITY STANDARDS AND METRICS THAT ACCURATELY MEASURE UNWANTED INTRUSIONS, SECURITY BREACHES, PENETRATIONS, AND VULNERABILITIES;**

**(4) DEVELOP A METHOD FOR THE SHARING OF SECURITY INFORMATION AND ANALYSIS;**

**(5) INCLUDE THE IDENTIFICATION AND ROUTINE ASSESSMENT OF SECURITY RISKS AT THE GOVERNMENTAL BODY LEVEL; AND**

**(6) DEVELOP INFORMATION SECURITY STANDARDS AND PRACTICES WHEN GOVERNMENTAL BODIES UTILIZE THE SERVICES OF THIRD PARTY CONTRACTORS.**

**SECTION 1-36-90. (A) BY AUGUST 1, 2014, AND EACH AUGUST FIRST THEREAFTER, EACH GOVERNMENTAL BODY MUST SUBMIT AN**

**INFORMATION SECURITY PLAN FOR THE COMING FISCAL YEAR TO THE COMMISSION FOR APPROVAL. THE COMMISSION MAY REQUIRE MODIFICATIONS TO THE PLANS THAT DO NOT CONFORM TO THE STATEWIDE INFORMATION SECURITY PLAN.**

**(B) THE INFORMATION SECURITY PLANS REQUIRED BY THIS SECTION MUST BE IN THE FORM AND LEVEL OF DETAIL REQUIRED BY THE COMMISSION AND SHALL INCLUDE AT A MINIMUM:**

**(1) THE INFORMATION SECURITY OBJECTIVES OF THE GOVERNMENTAL BODY;**

**(2) AN INVENTORY OF THE GOVERNMENTAL BODY'S INFORMATION SECURITY TECHNOLOGY;**

**(3) A PROFILE OF THE GOVERNMENTAL BODY'S INFORMATION TECHNOLOGY SECURITY POSTURE AND AN EXPLANATION OF ITS COMPLIANCE WITH SECURITY REQUIREMENTS ESTABLISHED BY THE COMMISSION;**

**(4) A PROFILE OF THE GOVERNMENTAL BODY'S SENSITIVE DATA AND A DESCRIPTION OF APPLICABLE STATE AND FEDERAL PRIVACY REQUIREMENTS;**

**(5) A PROFILE OF RISK MANAGEMENT AND OTHER MEASURES TAKEN BY THE GOVERNMENTAL BODY TO PROTECT ITS DATA FROM UNAUTHORIZED ACCESS AND DISCLOSURE; AND**

**(6) THE GOVERNMENTAL BODY'S BUDGET NEEDS FOR INFORMATION SECURITY FOR THE COMING FISCAL YEAR INCLUDING, BUT NOT LIMITED TO, APPROPRIATION AND AUTHORIZATION REQUESTS REGARDLESS OF SOURCE OF FUNDS, FTE ACCOUNTS, TEMPORARY PERSONNEL ACCOUNTS, AND SALARY INFORMATION.**

**SECTION 1-36-100. EACH GOVERNMENTAL BODY OR HEAD OF A GOVERNMENTAL BODY IS RESPONSIBLE FOR THE SECURITY OF THE GOVERNMENTAL BODY'S DATA WITHIN STANDARDS, POLICIES, AND DIRECTIONS ESTABLISHED BY THE COMMISSION AND SHALL:**

**(1) INSTALL AND ADMINISTER STATE DATA SECURITY SYSTEMS ON ITS COMPUTER FACILITIES CONSISTENT WITH THE ESTABLISHED STATEWIDE SECURITY PLAN TO ENSURE THE INTEGRITY OF ALL DATA AND APPLICABLE LIMITATIONS ON ACCESS TO DATA;**

**(2) NOTIFY THE COMMISSION OF ANY SECURITY RISK ASSESSMENTS, VULNERABILITY ASSESSMENTS, OR AUDITS TO BE CONDUCTED BY THE GOVERNMENTAL BODY OR THIRD PARTIES, INCLUDING THOSE CONDUCTED FOR FEDERAL GOVERNMENT PURPOSES, AND PROVIDE THE COMMISSION WITH ANY ASSOCIATED FINDINGS, RECOMMENDATIONS, AND REMEDIATION PLANS;**

**(3) COORDINATE WITH THE COMMISSION ON THE MANAGEMENT OF INFORMATION SECURITY INCIDENT RESPONSES. GOVERNMENTAL BODIES MUST NOTIFY THE COMMISSION OF ANY INFORMATION SECURITY INCIDENTS WITHIN TWENTY-FOUR HOURS;**

**(4) CONDUCT, AT THEIR OWN EXPENSE, SECURITY RISK ASSESSMENTS AND AUDITS TO MONITOR COMPLIANCE WITH ESTABLISHED COMMISSION ENTERPRISE ARCHITECTURE, STANDARDS, POLICIES, AND DIRECTIONS. THE COMMISSION SHALL ESTABLISH A SCHEDULE FOR SECURITY RISK ASSESSMENTS AND AUDITS WHICH MUST BE FOLLOWED BY GOVERNMENTAL BODIES; AND**

**(5) FULLY COOPERATE WITH AND FURNISH THE COMMISSION WITH ALL DOCUMENTS, REPORTS, ANSWERS, RECORDS, ACCOUNTS, PAPERS, AND OTHER NECESSARY DATA AND DOCUMENTARY INFORMATION TO PERFORM THE COMMISSION'S MISSION AND TO EXERCISE ITS FUNCTIONS, POWERS, AND DUTIES.**

**SECTION 1-36-110. THE COMMISSION SHALL EVALUATE THE INFORMATION TECHNOLOGY PLANS, INFORMATION SECURITY PLANS AND PROJECTS OF ALL GOVERNMENTAL BODIES TO DETERMINE WHETHER THE PLANS AND PROJECTS ARE CONSISTENT WITH THE SOUTH CAROLINA INFORMATION TECHNOLOGY PLAN AND THE SOUTH CAROLINA INFORMATION SECURITY PLAN. THE COMMISSION SHALL**



IMPLEMENT NECESSARY MANAGEMENT PROCESSES AND MAY CONDUCT AUDITS AS NECESSARY TO ENSURE THAT GOVERNMENTAL BODIES FULLY COMPLY WITH THE STATEWIDE INFORMATION TECHNOLOGY PLAN AND INFORMATION SECURITY PLAN. EACH GOVERNMENTAL BODY SHALL PROVIDE PERIODIC AND TIMELY UPDATES DETAILING THE PROJECT STATUS FOR ANY INFORMATION TECHNOLOGY OR INFORMATION SECURITY PROJECT EXCEEDING A TOTAL COST OF FIVE HUNDRED THOUSAND DOLLARS. GOVERNMENTAL BODIES MAY NOT ARTIFICIALLY DIVIDE THESE PROJECTS SO AS TO AVOID THESE REPORTING REQUIREMENTS. IN THE EVENT THAT THE COMMISSION FINDS THAT A GOVERNMENTAL BODY IS NOT FULLY COMPLIANT, THE COMMISSION MAY RECOMMEND THAT THE COMMITTEE REDUCE THE OFFENDING AGENCY'S INFORMATION TECHNOLOGY PROCUREMENT LIMIT. THE COMMISSION OR GOVERNMENTAL BODY MAY AMEND THEIR RESPECTIVE PLANS AT ANY TIME IN RESPONSE TO TECHNOLOGICAL ADVANCEMENTS, CHANGES IN LEGISLATION, PRACTICAL EXPERIENCE, NEWLY IDENTIFIED FUNDING SOURCES, OR NEW ISSUES RELATING TO INFORMATION TECHNOLOGY MANAGEMENT.

SECTION 1-36-120. (A) THE COMMISSION, WITH THE ASSISTANCE OF GOVERNMENTAL BODIES, SHALL DEVELOP A DATA CLASSIFICATION SCHEME AND SHALL REVIEW, DEVELOP, AND RECOMMEND POLICIES AND PROCEDURES TO BE IMPLEMENTED BY GOVERNMENTAL BODIES TO SUPPORT COMPLIANCE WITH STATE AND FEDERAL PRIVACY LAWS AND PROMOTE EFFECTIVE PRIVACY PROTECTION.

(B) THE COMMISSION SHALL IDENTIFY PRIVACY PROTECTION RISKS AND DEVELOP AND RECOMMEND RISK MITIGATION STRATEGIES, METHODS, AND PROCEDURES TO BE ADOPTED BY GOVERNMENTAL BODIES TO LESSEN THESE RISKS.

(C) THE COMMISSION SHALL RECOMMEND AND, TO THE EXTENT FUNDS ARE AVAILABLE FOR THIS PURPOSE, COORDINATE A TRAINING PROGRAM FOR PRIVACY OFFICIALS IN GOVERNMENTAL BODIES TO



**EDUCATE, PROMOTE, AND ADVANCE KNOWLEDGE OF PRIVACY PROTECTION BEST PRACTICES AND REQUIREMENTS.**

**SECTION 1-36-130. THE COMMISSION SHALL DEVELOP ENTERPRISE INFORMATION TECHNOLOGY AND INFORMATION SECURITY ENTERPRISE ARCHITECTURE, STANDARDS, POLICIES, AND DIRECTIONS IT DEEMS NECESSARY TO FULFILL THE MISSION OF THE COMMISSION, WHICH SHALL BE APPLICABLE TO ALL GOVERNMENTAL BODIES. THE COMMISSION SHALL EVALUATE INFORMATION TECHNOLOGY PLANS, INFORMATION SECURITY PLANS AND PROJECTS OF GOVERNMENTAL BODIES TO DETERMINE WHETHER THEY ARE CONSISTENT WITH ENTERPRISE ARCHITECTURE, STANDARDS, POLICIES, AND DIRECTIONS AND MAY CONDUCT AUDITS AS NECESSARY TO ASSURE THAT GOVERNMENTAL BODIES COMPLY WITH THE ARCHITECTURE, DIRECTIONS, AND STANDARDS AND MAY SUNSET CERTAIN TECHNOLOGIES THAT THE COMMISSION DEEMS INCONSISTENT WITH THE ARCHITECTURE, DIRECTIONS, AND STANDARDS. THE COMMISSION MAY EVALUATE THE INFORMATION TECHNOLOGY OF GOVERNMENTAL BODIES AND MAY STREAMLINE, STANDARDIZE, OR CONSOLIDATE INFORMATION TECHNOLOGY AND RELATED RESOURCES UPON APPROVAL OF THE COMMITTEE.**

**SECTION 1-36-140. THE COMMISSION ALSO SHALL:**

- (1) ESTABLISH ADVISORY COMMITTEES TO ASSIST THE COMMISSION IN FULFILLING ITS RESPONSIBILITIES AND DUTIES;**
- (2) WITH THE ASSISTANCE OF GOVERNMENTAL BODIES, DEVELOP A DATA CLASSIFICATION SCHEME AND SHALL REVIEW, DEVELOP, AND RECOMMEND POLICIES AND PROCEDURES TO BE IMPLEMENTED BY GOVERNMENTAL BODIES TO SUPPORT COMPLIANCE WITH STATE AND FEDERAL PRIVACY LAWS AND PROMOTE EFFECTIVE PRIVACY PROTECTION;**

**(3) MANAGE ANY STATE CONSOLIDATED DATA CENTERS TO BE USED BY GOVERNMENTAL BODIES AND OTHER GOVERNMENTAL ENTITIES UNDER TERMS AND CONDITIONS ESTABLISHED BY THE COMMISSION. MANAGEMENT MAY INCLUDE THE MANAGEMENT OF THIRD PARTY SERVICE PROVIDERS;**

**(4) ENTER INTO AGREEMENTS AND CONTRACTS WITH GOVERNMENTAL BODIES, OTHER GOVERNMENTAL ENTITIES AND PRIVATE SECTOR ENTITIES FOR GOODS AND SERVICES. THE COMMISSION MAY PROVIDE GOODS AND SERVICES TO GOVERNMENTAL BODIES AND OTHER GOVERNMENTAL ENTITIES AND CHARGE FEES FOR SUCH SERVICES AND GOODS;**

**(5) NO LATER THAN OCTOBER FIRST OF EACH YEAR, EVALUATE AND PRIORITIZE, PURSUANT TO CRITERIA APPROVED BY THE COMMITTEE, CURRENT AND FUTURE INFORMATION TECHNOLOGY BUDGETS FOR GOVERNMENTAL BODIES IN AN ANNUAL REPORT SUBMITTED TO THE GOVERNOR AND THE GENERAL ASSEMBLY;**

**(6) SUPPORT, OPERATE, AND MAINTAIN THE SOUTH CAROLINA ENTERPRISE INFORMATION SYSTEM TECHNOLOGY INFRASTRUCTURE, INCLUDING SECTION 11-53-20;**

**(7) ASSIST THE OFFICE OF HUMAN RESOURCES IN DEVELOPING GUIDELINES CONCERNING THE COMPENSATION, QUALIFICATIONS, AND TRAINING REQUIREMENTS OF INFORMATION TECHNOLOGY RELATED PERSONNEL;**

**(8) COORDINATE AT LEAST ONE TRAINING CONFERENCE ANNUALLY FOR INFORMATION SECURITY OFFICERS IN GOVERNMENTAL BODIES AND RECEIVE AN APPROPRIATION FOR THE CONFERENCE IN AN AMOUNT SUFFICIENT TO ATTRACT THE TOP INFORMATION SECURITY PROFESSIONALS IN THE COUNTRY TO SPEAK AND TO PRODUCE TRAINING MATERIALS FOR ATTENDEES; AND**

**(9) EXERCISE AND PERFORM OTHER POWERS AND DUTIES AS GRANTED TO IT, IMPOSED UPON IT BY LAW OR NECESSARY TO CARRY OUT THE PURPOSES IN THIS CHAPTER.**

**SECTION 1-36-150. THE JOINT INFORMATION TECHNOLOGY COMMITTEE ESTABLISHED PURSUANT TO SECTION 1-36-40 SHALL:**

**(1) ADOPT ANNUALLY THE STATEWIDE INFORMATION TECHNOLOGY PLAN AND STATEWIDE INFORMATION SECURITY PLAN;**

**(2) DEVELOP AND ADOPT POLICIES AND PROCEDURES USED BY THE COMMISSION TO APPROVE THE INFORMATION TECHNOLOGY PLAN AND INFORMATION SECURITY PLAN FOR EACH GOVERNMENTAL BODY;**

**(3) BY OCTOBER 1, 2014, AND EACH OCTOBER FIRST THEREAFTER, PROVIDE TO THE GOVERNOR, OFFICE OF STATE BUDGET, AND THE GENERAL ASSEMBLY AN UPDATED STATEWIDE INFORMATION TECHNOLOGY AND INFORMATION SECURITY PLAN. THE PLAN SHALL DISCUSS THE STATE'S OVERALL TECHNOLOGY AND INFORMATION SECURITY NEEDS OVER A MULTIYEAR PERIOD AND POTENTIAL BUDGETARY IMPLICATIONS OF MEETING THOSE NEEDS.**

**(4) REVIEW THE CRITERIA DEVELOPED BY THE COMMISSION FOR THE REVIEW AND APPROVAL OF INFORMATION TECHNOLOGY PROJECTS OF GOVERNMENTAL BODIES;**

**(5) PERIODICALLY ADJUST PROCUREMENT CERTIFICATION LIMITS OF INFORMATION TECHNOLOGY INVESTMENTS PURSUANT TO SECTION 11-35-1210**

**(6) AT THE RECOMMENDATION OF THE COMMISSION AND PROVIDED INFORMATION TECHNOLOGY PROJECTS ARE DETERMINE TO NOT BE ON BUDGET AND ARE NOT MEETING PROJECT MILESTONES, NOTIFY THE GENERAL ASSEMBLY AND MAKE RECOMMENDATIONS FOR CORRECTIVE ACTION;**

**(7) GRANT, AS NECESSARY, THE COMMISSION AND GOVERNMENTAL BODIES WAIVERS FROM THE REQUIREMENTS OF THIS CHAPTER; AND**

**(8) UPON REQUEST OF A GOVERNMENTAL BODY, REVIEW DECISIONS OF THE COMMISSION CONCERNING WHETHER THE INFORMATION TECHNOLOGY AND INFORMATION SECURITY PLANS AND**

**INFORMATION TECHNOLOGY PROJECTS OF THE GOVERNMENTAL BODY CONFORM TO STATEWIDE OBJECTIVES AND STANDARDS.**

**SECTION 1-36-160. (A) THE INFORMATION TECHNOLOGY MANAGEMENT OFFICE, FORMALLY AN OFFICE UNDER THE STATE BUDGET AND CONTROL BOARD, IS HEREBY TRANSFERRED TO THE COMMISSION. THE COMMISSION SHALL ADMINISTER INFORMATION TECHNOLOGY PROCUREMENTS FOR GOVERNMENTAL BODIES. SUCH PROCUREMENTS MUST BE CONDUCTED PURSUANT TO THE CONSOLIDATED PROCUREMENT CODE AND RELATED REGULATIONS AND DIRECTIVES, UNLESS OTHERWISE PROVIDED BY LAW OR OTHER ACTION.**

**(B) THE DIVISION OF STATE INFORMATION TECHNOLOGY, FORMALLY A DIVISION UNDER THE STATE BUDGET AND CONTROL BOARD, IS HEREBY TRANSFERRED TO THE COMMISSION WITH ITS DUTIES AND RESPONSIBILITIES TO BE DETERMINED BY THE COMMISSION.**

**(C) THE EMPLOYEES, AUTHORIZED APPROPRIATIONS, AND ASSETS AND LIABILITIES OF THE INFORMATION TECHNOLOGY MANAGEMENT OFFICE AND THE DIVISION OF STATE INFORMATION TECHNOLOGY ARE TRANSFERRED TO AND BECOME PART OF THE COMMISSION. ALL CLASSIFIED OR UNCLASSIFIED PERSONNEL EMPLOYED BY THESE ENTITIES ON THE EFFECTIVE DATE OF THIS ACT, EITHER BY CONTRACT OR BY EMPLOYMENT AT WILL, SHALL BECOME EMPLOYEES OF THE COMMISSION WITH THE SAME COMPENSATION, CLASSIFICATION, AND GRADE LEVEL, AS APPLICABLE.**

**(D) REGULATIONS PROMULGATED BY THESE TRANSFERRED ENTITIES AS THEY FORMERLY EXISTED UNDER THE STATE BUDGET AND CONTROL BOARD ARE CONSIDERED TO BE PROMULGATED BY THE COMMISSION AND REMAIN IN EFFECT UNLESS OTHERWISE AMENDED OR REPEALED BY THE COMMISSION.**



**SECTION 1-36-170. INFORMATION, OTHER THAN TOTAL AMOUNTS PAID FOR EQUIPMENT AND SERVICES, RELATED TO OR IN ANY WAY ASSOCIATED WITH INFORMATION SECURITY PLANS, EQUIPMENT AND SOFTWARE PROPOSED, ADOPTED, INSTALLED, OR UTILIZED BY A GOVERNMENTAL BODY, INFORMATION SECURITY RISK ASSESSMENT OR AUDITS, VULNERABILITY REPORTS, NETWORK DIAGRAMS OR SCHEMATICS, OR ANY OTHER INFORMATION WHICH MAY COMPROMISE OR PLACE THE INFORMATION TECHNOLOGY OR INFORMATION RESIDING IN THE INFORMATION TECHNOLOGY AT RISK IS REQUIRED TO BE CLOSED TO THE PUBLIC AND IS NOT SUBJECT TO DISCLOSURE PURSUANT TO CHAPTER 4, TITLE 30, THE FREEDOM OF INFORMATION ACT.**

**SECTION 1-36-180. THE COMMISSION SHALL RECEIVE FROM THE STATE BUDGET AND CONTROL BOARD, FOR A FEE AGREED UPON BY THE BOARD AND THE COMMISSION, ADMINISTRATIVE SUPPORT INCLUDING, BUT NOT LIMITED TO, FINANCIAL MANAGEMENT, HUMAN RESOURCE MANAGEMENT AND LOGISTICAL SUPPORT.**

**SECTION 1-36-190. THE COMMISSION IS AUTHORIZED TO PROVIDE TO AND RECEIVE GOODS AND SERVICES FROM OTHER GOVERNMENTAL BODIES, POLITICAL SUBDIVISIONS, AND OTHER ENTITIES. THE COMMISSION MAY CHARGE AND PAY GOVERNMENTAL BODIES, POLITICAL SUBDIVISIONS, AND OTHER ENTITIES FOR THE GOODS AND SERVICES, THE REVENUE FROM WHICH MUST BE DEPOSITED IN THE OFFICE OF THE STATE TREASURER IN A SPECIAL ACCOUNT AND EXPENDED ONLY FOR THE COSTS OF PROVIDING THE GOODS AND SERVICES, AND THESE FUNDS MAY BE RETAINED AND EXPENDED FOR THE SAME PURPOSES.**

**SECTION 1-36-200. THE COMMISSION MAY PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS**



CHAPTER AND TO ACCOMPLISH THE OBJECTIVES SET FORTH HEREIN. THE REGULATIONS MAY INCLUDE PENALTIES FOR ANY GOVERNMENTAL BODY IN VIOLATION OF THIS CHAPTER.”

B. SECTION 11-35-1580(1) OF THE 1976 CODE IS AMENDED TO READ:

“(1)INFORMATION TECHNOLOGY MANAGEMENT OFFICE. THE INFORMATION TECHNOLOGY MANAGEMENT OFFICE ~~SHALL BE, UNLESS OTHERWISE PROVIDED BY LAW, IS RESPONSIBLE FOR:~~

(A) ~~ASSESSING THE NEED FOR AND USE OF INFORMATION TECHNOLOGY;~~

(B) ADMINISTERING ALL PROCUREMENT AND CONTRACTING ACTIVITIES UNDERTAKEN FOR GOVERNMENTAL BODIES INVOLVING INFORMATION TECHNOLOGY IN ACCORDANCE WITH THIS CHAPTER; AND

~~(C)~~(B) PROVIDING FOR THE DISPOSAL OF ALL INFORMATION TECHNOLOGY PROPERTY SURPLUS TO THE NEEDS OF A USING AGENCY;

~~(D) EVALUATING THE USE AND MANAGEMENT OF INFORMATION TECHNOLOGY;~~

~~(E) OPERATING A COMPREHENSIVE INVENTORY AND ACCOUNTING REPORTING SYSTEM FOR INFORMATION TECHNOLOGY;~~

~~(F) DEVELOPING POLICIES AND STANDARDS FOR THE MANAGEMENT OF INFORMATION TECHNOLOGY IN STATE GOVERNMENT;~~

~~(G) INITIATING A STATE PLAN FOR THE MANAGEMENT AND USE OF INFORMATION TECHNOLOGY;~~

~~(H) PROVIDING MANAGEMENT AND TECHNICAL ASSISTANCE TO STATE AGENCIES IN USING INFORMATION TECHNOLOGY; AND~~

~~(I) ESTABLISHING A REFERRAL SERVICE FOR STATE AGENCIES SEEKING TECHNICAL ASSISTANCE OR INFORMATION TECHNOLOGY SERVICES.”~~

**C. SECTION 1-11-430 OF THE 1976 CODE IS AMENDED TO READ:**

**“SECTION 1-11-430. (A) IN POST-DIVESTITURE CIRCUMSTANCES, THE STATE, ITS BOARDS, COMMITTEES, COMMISSIONS, COUNCILS, AND AGENCIES, AND OTHER ENTITIES EXCLUDING COUNTIES, MUNICIPALITIES, AND SPECIAL SERVICE AND SCHOOL DISTRICTS MUST BE TREATED AS A SINGLE ENTERPRISE FOR PURPOSES OF SECURING AND UTILIZING LOCAL AND LONG DISTANCE TELECOMMUNICATIONS EQUIPMENT AND SERVICES.**

**(B) THE STATE BUDGET AND CONTROL BOARD COMMISSION ON INFORMATION TECHNOLOGY SHALL SECURE ALL TELECOMMUNICATIONS EQUIPMENT AND SERVICES FOR THE STATE GOVERNMENT ENTERPRISE UNDER TERMS IT CONSIDERS SUITABLE AND COORDINATE THE SUPPLY OF THE EQUIPMENT AND SERVICES FOR STATE GOVERNMENT USE. NO ENTITY OF STATE GOVERNMENT MAY ENTER INTO AN AGREEMENT OR RENEW AN EXISTING AGREEMENT FOR TELECOMMUNICATIONS SERVICES UNLESS APPROVED BY THE BOARD.”**

**D. SECTION 1-11-435 OF THE 1976 CODE IS AMENDED TO READ:**

**“SECTION 1-11-435. TO PROTECT THE STATE’S CRITICAL INFORMATION TECHNOLOGY INFRASTRUCTURE AND ASSOCIATED DATA SYSTEMS IN THE EVENT OF A MAJOR DISASTER, WHETHER NATURAL OR OTHERWISE, AND TO ALLOW THE SERVICES TO THE CITIZENS OF THIS STATE TO CONTINUE IN SUCH AN EVENT, THE ~~OFFICE OF THE STATE CHIEF INFORMATION OFFICER (CIO)~~ COMMISSION ON INFORMATION TECHNOLOGY SHOULD DEVELOP A CRITICAL INFORMATION TECHNOLOGY INFRASTRUCTURE PROTECTION PLAN DEVISING POLICIES AND PROCEDURES TO PROVIDE FOR THE CONFIDENTIALITY, INTEGRITY, AND AVAILABILITY OF, AND TO ALLOW FOR ALTERNATIVE AND IMMEDIATE ON-LINE ACCESS TO CRITICAL DATA AND INFORMATION SYSTEMS INCLUDING, BUT NOT LIMITED TO, HEALTH AND**

HUMAN SERVICES, LAW ENFORCEMENT, AND RELATED AGENCY DATA NECESSARY TO PROVIDE CRITICAL INFORMATION TO CITIZENS AND ENSURE THE PROTECTION OF STATE EMPLOYEES AS THEY CARRY OUT THEIR DISASTER-RELATED DUTIES. ALL STATE AGENCIES AND POLITICAL SUBDIVISIONS OF THIS STATE ARE DIRECTED TO ASSIST THE ~~OFFICE OF THE STATE CIO~~ COMMISSION IN THE COLLECTION OF DATA REQUIRED FOR THIS PLAN.”

E. SECTION 1-11-490 OF THE 1976 CODE, AS ADDED BY ACT 190 OF 2008, IS AMENDED TO READ:

“SECTION 1-11-490. (A) AN AGENCY OF THIS STATE OWNING OR LICENSING COMPUTERIZED DATA OR OTHER DATA THAT INCLUDES PERSONAL IDENTIFYING INFORMATION SHALL DISCLOSE ~~A~~ ANY BREACH OF THE SECURITY OF THE SYSTEM FOLLOWING DISCOVERY OR NOTIFICATION OF THE BREACH IN THE SECURITY OF THE DATA TO ~~A~~ ANY RESIDENT OF THIS STATE WHOSE ~~UNENCRYPTED AND UNREDACTED~~ PERSONAL IDENTIFYING INFORMATION WAS, OR IS REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON ~~WHEN THE 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 RESIDENT.~~ IN DETERMINING WHETHER INFORMATION HAS BEEN ACQUIRED, OR IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED, BY AN UNAUTHORIZED PERSON OR A PERSON WITHOUT VALID AUTHORIZATION, THE AGENCY MAY CONSIDER THE FOLLOWING FACTORS, AMONG OTHERS:

(1) INDICATIONS THAT THE INFORMATION IS IN THE PHYSICAL POSSESSION AND CONTROL OF AN UNAUTHORIZED PERSON, SUCH AS A LOST OR STOLEN COMPUTER OR OTHER DEVICE CONTAINING INFORMATION;

(2) INDICATIONS THAT THE INFORMATION HAS BEEN VIEWED, DOWNLOADED, OR COPIED; OR

(3) INDICATIONS THAT THE INFORMATION WAS USED BY AN UNAUTHORIZED PERSON, SUCH AS FRAUDULENT ACCOUNTS OPENED OR INSTANCES OF REPORTED IDENTITY THEFT. THE DISCLOSURE MUST BE MADE IN THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT UNREASONABLE DELAY, CONSISTENT WITH THE LEGITIMATE NEEDS OF LAW ENFORCEMENT, AS PROVIDED IN SUBSECTION (C), OR WITH MEASURES NECESSARY TO DETERMINE THE SCOPE OF THE BREACH AND RESTORE THE REASONABLE INTEGRITY OF THE DATA SYSTEM.

(B) AN AGENCY MAINTAINING COMPUTERIZED DATA OR OTHER DATA THAT INCLUDES PERSONAL IDENTIFYING INFORMATION THAT THE AGENCY DOES NOT OWN SHALL NOTIFY THE OWNER OR LICENSEE OF THE INFORMATION OF A BREACH OF THE SECURITY OF THE DATA IMMEDIATELY FOLLOWING DISCOVERY, IF THE PERSONAL IDENTIFYING INFORMATION WAS, OR IS REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON.

(C) THE DISCLOSURE REQUIREMENTS OF SUBSECTIONS (A) AND (B) MUST BE MADE IN THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT UNREASONABLE DELAY; HOWEVER, THE NOTIFICATION REQUIRED BY THIS SECTION MAY BE DELAYED IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION IMPEDES A CRIMINAL INVESTIGATION. THE NOTIFICATION REQUIRED BY THIS SECTION AND MUST BE MADE AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT IT NO LONGER COMPROMISES THE INVESTIGATION. A DELAY IN NOTIFICATION SHALL NOT EXCEED SEVENTY-TWO HOURS AFTER DISCOVERY, UNLESS THE AGENCY REQUESTS AND THE ATTORNEY GENERAL GRANTS, IN WRITING, ADDITIONAL DELAYS OF UP TO SEVENTY-TWO HOURS EACH UPON A DETERMINATION THAT SUCH NOTIFICATION IMPEDES A CRIMINAL INVESTIGATION.

(D) FOR PURPOSES OF THIS SECTION:



(1) 'AGENCY' MEANS ANY AGENCY, DEPARTMENT, BOARD, COMMISSION, COMMITTEE, OR INSTITUTION OF HIGHER LEARNING OF THE STATE OR A POLITICAL SUBDIVISION OF IT.

(2) 'BREACH OF THE SECURITY OF THE SYSTEM' MEANS UNAUTHORIZED ACCESS TO AND ACQUISITION OF COMPUTERIZED DATA THAT WAS NOT RENDERED UNUSABLE THROUGH ENCRYPTION, REDACTION, OR OTHER METHODS THAT COMPROMISE THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL IDENTIFYING INFORMATION MAINTAINED BY THE AGENCY, 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. GOOD FAITH ACQUISITION OF PERSONAL IDENTIFYING INFORMATION BY AN EMPLOYEE OR AGENT OF THE AGENCY FOR THE PURPOSES OF THE AGENCY IS NOT A BREACH OF THE SECURITY OF THE SYSTEM IF THE PERSONAL IDENTIFYING INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE.

(3) 'CONSUMER REPORTING AGENCY' MEANS ANY PERSON WHICH, FOR MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD PARTIES, AND WHICH USES ANY MEANS OR FACILITY OF INTERSTATE COMMERCE FOR THE PURPOSE OF PREPARING OR FURNISHING CONSUMER REPORTS. A LIST OF CONSUMER REPORTING AGENCIES SHALL BE COMPILED BY THE DEPARTMENT OF CONSUMER AFFAIRS AND FURNISHED UPON REQUEST TO THE AGENCY REQUIRED TO MAKE A NOTIFICATION UNDER THIS SECTION.

(4) 'PERSONAL IDENTIFYING INFORMATION' HAS THE SAME MEANING AS 'PERSONAL IDENTIFYING INFORMATION' IN SECTION 16-13-510(D). 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 OR WHEN THE DATA ELEMENTS ARE ENCRYPTED WITH AN ENCRYPTION KEY AND THE ENCRYPTION KEY THAT HAS ALSO BEEN ACQUIRED:

(A) SOCIAL SECURITY NUMBER;

(B) DRIVER'S LICENSE NUMBER OR STATE IDENTIFICATION CARD NUMBER ISSUED INSTEAD OF A DRIVER'S LICENSE;

(C) 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 ACCOUNT; OR

(D) OTHER NUMBERS OR INFORMATION WHICH MAY BE USED TO ACCESS A PERSON'S FINANCIAL ACCOUNTS OR NUMBERS OR INFORMATION ISSUED BY A GOVERNMENTAL OR REGULATORY ENTITY THAT UNIQUELY WILL IDENTIFY AN INDIVIDUAL.

THE TERM DOES NOT INCLUDE INFORMATION THAT IS LAWFULLY OBTAINED FROM PUBLICLY AVAILABLE INFORMATION, OR FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC.

**(E) THE NOTICE REQUIRED BY THIS SECTION MAY BE PROVIDED BY:**

**(1) WRITTEN NOTICE;**

**(2) ELECTRONIC NOTICE, IF THE PERSON'S AGENCY'S PRIMARY METHOD OF COMMUNICATION WITH THE INDIVIDUAL IS BY ELECTRONIC MEANS, THE PERSON TO WHOM NOTICE IS REQUIRED HAS EXPRESSLY CONSENTED TO RECEIVING THIS NOTICE IN ELECTRONIC FORM, OR IS CONSISTENT WITH THE PROVISIONS REGARDING ELECTRONIC RECORDS AND SIGNATURES SET FORTH IN SECTION 7001 OF TITLE 15 USC AND CHAPTER 6, TITLE 26 OF THE 1976 CODE;**

**(3) TELEPHONIC NOTICE; OR**

**(4) SUBSTITUTE NOTICE, IF THE AGENCY DEMONSTRATES THAT THE COST OF PROVIDING NOTICE EXCEEDS TWO HUNDRED FIFTY THOUSAND DOLLARS OR THAT THE AFFECTED CLASS OF SUBJECT PERSONS TO BE NOTIFIED EXCEEDS FIVE HUNDRED THOUSAND OR THE AGENCY HAS INSUFFICIENT CONTACT INFORMATION. SUBSTITUTE NOTICE CONSISTS OF:**

**(A) EMAIL NOTICE WHEN THE AGENCY HAS AN E-MAIL ADDRESS FOR THE SUBJECT PERSONS;**

**(B) CONSPICUOUS POSTING OF THE NOTICE ON THE AGENCY'S WEBSITE PAGE, IF THE AGENCY MAINTAINS ONE; OR**

**(C) NOTIFICATION TO MAJOR STATEWIDE MEDIA.**

**REGARDLESS OF THE METHOD BY WHICH NOTICE IS PROVIDED, SUCH NOTICE SHALL INCLUDE CONTACT INFORMATION FOR THE AGENCY MAKING THE NOTIFICATION AND A DESCRIPTION OF THE CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY A PERSON WITHOUT VALID AUTHORIZATION, INCLUDING SPECIFICATION OF WHICH OF THE ELEMENTS OF PERSONAL INFORMATION AND PRIVATE INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN SO ACQUIRED.**

**~~(F) NOTWITHSTANDING SUBSECTION (E), AN AGENCY THAT MAINTAINS ITS OWN NOTIFICATION PROCEDURES AS PART OF AN INFORMATION SECURITY POLICY FOR THE TREATMENT OF PERSONAL IDENTIFYING INFORMATION AND IS OTHERWISE CONSISTENT WITH THE TIMING REQUIREMENTS OF THIS SECTION IS CONSIDERED TO BE IN COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS OF THIS SECTION IF IT NOTIFIES SUBJECT PERSONS IN ACCORDANCE WITH ITS POLICIES IN THE EVENT OF A BREACH OF SECURITY OF THE SYSTEM.~~**

**(G)(F) 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;**

**(2) SEEK AN INJUNCTION TO ENFORCE COMPLIANCE; AND**

**(3) RECOVER ATTORNEY’S FEES AND COURT COSTS, IF SUCCESSFUL.**

**~~(H)~~(G) AN AGENCY THAT KNOWINGLY AND WILFULLY VIOLATES THIS SECTION IS SUBJECT TO AN ADMINISTRATIVE FINE UP TO ONE THOUSAND DOLLARS FOR EACH RESIDENT WHOSE INFORMATION WAS ACCESSIBLE BY REASON OF THE BREACH, THE AMOUNT TO BE DECIDED BY THE DEPARTMENT OF CONSUMER AFFAIRS.**

**~~(H)~~(H) IF THE AGENCY PROVIDES NOTICE TO MORE THAN ONE THOUSAND PERSONS AT ONE TIME PURSUANT TO THIS SECTION, THE BUSINESS AGENCY SHALL NOTIFY, WITHOUT UNREASONABLE DELAY, THE CONSUMER PROTECTION DIVISION OF THE DEPARTMENT OF CONSUMER AFFAIRS AND ALL CONSUMER REPORTING AGENCIES THAT COMPILE AND MAINTAIN FILES ON A NATIONWIDE BASIS, AS DEFINED IN 15 USC SECTION 1681A(P), OF THE TIMING, DISTRIBUTION, AND CONTENT OF THE NOTICE.” /**

**SECTION 4. UNLESS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THE PROVISIONS OF THIS ACT TAKE EFFECT ON JULY 1, 2014. HOWEVER, BEGINNING ON JANUARY 1, 2014, THE APPROPRIATE OFFICIALS OF THE EXECUTIVE BRANCH MAY BEGIN UNDERTAKING AND EXECUTING RESPONSIBILITIES INVOLVED IN THE IMPLEMENTATION OF THE PROVISIONS OF THIS ACT REGARDING THE TRANSFER OF CERTAIN OFFICES, DIVISIONS, AND RELEVANT PERSONNEL TO OTHER AGENCIES; THE IMPLEMENTATION OF NEW OFFICES OR DIVISIONS WITHIN AGENCIES; AND THE NEGOTIATION AND EXECUTION OF NECESSARY AGREEMENTS SO THAT THE PROVISIONS OF THIS ACT MAY BE FULLY IMPLEMENTED ON JULY 1, 2014, SUBJECT TO THE APPROPRIATIONS CONTAINED IN THE FY2014-15 GENERAL APPROPRIATIONS ACT TO THE FULLEST EXTENT POSSIBLE REFLECTIVE OF THE TRANSFERS, REALIGNMENTS, AND RESTRUCTURING AS PROVIDED IN THIS ACT. /**

**RENUMBER SECTIONS TO CONFORM.**

**AMEND TITLE TO CONFORM.**

