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HOUSE BILL 1250

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State of Washington

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By Representatives McIntire, Keiser, Sullivan, Santos, Benson, Hatfield, Quall, Barlean, Hurst, Dunshee, Bush, Constantine, Dickerson, Rockefeller, O'Brien and Kenney

Read first time 01/20/1999. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to protecting the privacy of financial information;  
2 adding a new chapter to Title 9 RCW; prescribing penalties; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that  
6 financial information is personal and sensitive information that if  
7 improperly used or released may do significant harm to a person's  
8 privacy, financial security, and other interests. The legislature  
9 finds that the risks of improper use or release of private financial  
10 information is increasing as computer and communication technology  
11 improves and unscrupulous persons find ever more clever ways to  
12 improperly obtain and use financial information. The legislature  
13 intends to discourage improper use or release of financial information  
14 by requiring holders of such information to be more diligent in  
15 protecting it from improper use or release and by creating penalties  
16 for improperly obtaining or using financial information.

17 (2) The legislature also finds that many persons and institutions  
18 may have access to financial information in many different contexts and  
19 for many different purposes. It is the public policy of this state

1 that a person's interest in the proper use and release of that person's  
2 financial information survives regardless of who holds the information.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. As used in this chapter,  
4 unless the context clearly requires otherwise:

5 (1) "Financial information" means any information related to the  
6 assets, liabilities, or credit of an individual and is identifiable to  
7 the individual, including account numbers, account balances and other  
8 account data, transactional information concerning any account, and  
9 codes, passwords, and other means of access to accounts or means to  
10 initiate transactions, such as mother's maiden name. Financial  
11 information includes an individual's social security, driver's license,  
12 and tax identification number.

13 (2) "Financial institution" means any person engaged in the  
14 business of providing financial services to customers who have a  
15 credit, deposit, trust, stock, or other financial account or  
16 relationship with the person; it includes banks, credit unions, savings  
17 banks, lenders, credit card companies, insurers, and securities broker-  
18 dealers.

19 (3) "Individual" means an individual and his or her family.

20 (4) "Person" means an individual, partnership, corporation, or  
21 association.

22 NEW SECTION. **Sec. 3.** PROTECTING FINANCIAL INFORMATION--FINANCIAL  
23 INSTITUTIONS. (1) Financial institutions have an affirmative and  
24 continuing obligation to respect the privacy of their customers and to  
25 protect the security and confidentiality of customer's financial  
26 information. Financial institutions shall establish appropriate  
27 policies and procedures to safeguard the security and confidentiality  
28 of financial information and to protect against likely threats or  
29 hazards to the security or integrity of such records.

30 (2) A financial institution shall not disclose or provide customer  
31 financial information to a third party for their independent use except  
32 to the extent the disclosure of such information:

33 (a) Is necessary to complete a customer-initiated transaction;

34 (b) Has been requested or authorized by the customer and reasonable  
35 steps have been taken to identify the customer;

36 (c) Is required by law by a public agency or court as part of an  
37 investigation, subpoena, judgment, or other legal proceeding;

1 (d) Is traditionally supplied to a consumer reporting agency under  
2 chapter 19.182 RCW; or

3 (e) Is regarding whether the customer had checks returned for  
4 nonsufficient funds and is made to a financial institution where the  
5 customer is applying to open a checking account.

6 (3) A financial institution shall not be liable for unauthorized  
7 disclosure of financial or personal information if policies and  
8 procedures under subsection (1) of this section were followed in making  
9 the disclosure.

10 (4) Except as provided in subsection (3) of this section, a  
11 financial institution that violates this section is liable for five  
12 hundred dollars or actual damages, including costs to repair the  
13 customer's credit record, whichever is greater, and reasonable  
14 attorneys' fees.

15 NEW SECTION. **Sec. 4.** PROTECTING FINANCIAL INFORMATION--OTHERS.

16 (1) Persons other than financial institutions with financial  
17 information on an individual have an affirmative and continuing  
18 obligation to respect the privacy of the individual and to not  
19 improperly or inappropriately disclose or provide an individual's  
20 financial information to a third party for their independent use.

21 (2) A person that violates this section is liable for five hundred  
22 dollars or actual damages, whichever is greater, and reasonable  
23 attorneys' fees. If the person that violates this section is a  
24 business that repeatedly violates this section, that person also  
25 violates the consumer protection act, chapter 19.86 RCW.

26 NEW SECTION. **Sec. 5.** PROHIBITING ATTEMPTS TO IMPROPERLY OBTAIN  
27 FINANCIAL INFORMATION. (1) No person may obtain or attempt to obtain,  
28 or cause to be disclosed or attempt to cause to be disclosed to any  
29 person, financial information of a financial institution's customer:

30 (a) By knowingly making a false, fictitious, or fraudulent  
31 statement or representation to an officer, employee, or agent of a  
32 financial institution with the intent to deceive the officer, employee,  
33 or agent into relying on that statement or representation for purposes  
34 of releasing the financial information;

35 (b) By knowingly making a false, fictitious, or fraudulent  
36 statement or representation to a customer of a financial institution

1 with the intent to deceive the customer into releasing financial  
2 information or authorizing the release of such information;

3 (c) By knowingly providing any document to an officer, employee, or  
4 agent of a financial institution, knowing that the document is forged,  
5 counterfeit, lost, or stolen; was fraudulently obtained; or contains a  
6 false, fictitious, or fraudulent statement or representation, if the  
7 document is provided with the intent to deceive the officer, employee,  
8 or agent to release the financial information.

9 (2) No person may request another person to obtain financial  
10 information from a financial institution knowing or consciously  
11 avoiding knowing that the person will obtain or attempt to obtain the  
12 information from the financial institution in any manner described in  
13 subsection (1) of this section.

14 (3) This section does not apply to:

15 (a) Any action by a law enforcement agency in connection with the  
16 performance of the official duties of the agency;

17 (b) Efforts by the financial institution to test security  
18 procedures or systems of the financial institution for maintaining the  
19 confidentiality of customer information;

20 (c) Investigation of alleged employee misconduct or negligence; or

21 (d) Efforts to recover financial or personal information of the  
22 financial institution obtained or received by another person in any  
23 manner described in subsection (1) or (2) of this section.

24 (4) Violation of this section is a class C felony.

25 (5) A person that violates this section is liable for five hundred  
26 dollars or actual damages, whichever is greater, and reasonable  
27 attorneys' fees. If the person violating this section is a business  
28 that repeatedly violates this section, that person also violates the  
29 consumer protection act, chapter 19.86 RCW.

30 NEW SECTION. **Sec. 6.** PROHIBITING SALE OF FINANCIAL INFORMATION.

31 (1) No person may knowingly provide or disclose financial information  
32 of another person without the consent of that person to a third party  
33 for compensation or other financial gain.

34 (2) This section does not apply to:

35 (a) Consumer reporting agencies when authorized under chapter  
36 19.182 RCW; and

37 (b) Law enforcement agencies in connection with the performance of  
38 the official duties of the agency.

1 (3) Violation of this section is a class C felony.

2 (4) A person that violates this section is liable for five hundred  
3 dollars or actual damages, including costs to repair the person's  
4 credit record, whichever is greater, and reasonable attorneys' fees.  
5 If the person violating this section is a business that repeatedly  
6 violates this section, that person also violates the consumer  
7 protection act, chapter 19.86 RCW.

8 NEW SECTION. **Sec. 7.** PROHIBITING IDENTITY THEFT. (1) No person  
9 may knowingly use or transfer, without consent or lawful authority, a  
10 means of identification of another person with the intent to commit, or  
11 to aid or abet, any unlawful activity harming the financial position or  
12 reputation of the person whose identity is used, or for committing any  
13 felony.

14 (2) For purposes of this section, "means of identification" means  
15 any information or item that is not describing finances or credit but  
16 is personal to or identifiable with any individual or other person,  
17 including any current or former name of the person, telephone number,  
18 and e-mail address of the individual or any member of his or her  
19 family, including the ancestor of such person; any information relating  
20 to a change in name, address, telephone number, or e-mail address of  
21 the individual or his or her family; any social security, driver's  
22 license, or tax identification number of the individual or any member  
23 of his or her family; and other information which could be used to  
24 identify the person, including unique biometric data.

25 (3) Violation of this section is a class C felony.

26 (4) A person that violates this section is liable for five hundred  
27 dollars or actual damages, including costs to repair the person's  
28 credit record, whichever is greater, and reasonable attorneys' fees.  
29 If the person violating this section is a business that repeatedly  
30 violates this section, that person also violates the consumer  
31 protection act, chapter 19.86 RCW.

32 NEW SECTION. **Sec. 8.** EFFECTIVE DATE. This act takes effect  
33 January 1, 2000.

34 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this act  
35 are not part of the law.

1        NEW SECTION.    **Sec. 10.**    SEVERABILITY CLAUSE.    If any provision of  
2 this act or its application to any person or circumstance is held  
3 invalid, the remainder of the act or the application of the provision  
4 to other persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 11.**    Sections 1 through 10 of this act  
6 constitute a new chapter in Title 9 RCW.

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