

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2015

Chapter 90, Laws of 2002

57th Legislature
2002 Regular Session

PERSONAL INFORMATION--DISPOSAL

EFFECTIVE DATE: 6/13/02

Passed by the House February 16 2002
Yeas 98 Nays 0

FRANK CHOPP
**Speaker of the House of
Representatives**

Passed by the Senate March 5, 2002
Yeas 48 Nays 0

BRAD OWEN
President of the Senate

Approved March 22, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2015** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

March 22, 2002 - 12:38 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2015

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives McIntire, Hatfield, Benson, Bush, Ruderman, Schual-Berke, Conway, Kenney, Keiser and Hurst)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to protecting personal information; adding a new
2 chapter to Title 19 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the careless
5 disposal of personal information by commercial, governmental, or other
6 entities poses a significant threat of identity theft, thus risking a
7 person's privacy, financial security, and other interests. The
8 alarming increase in identity theft crimes and other problems
9 associated with the improper disposal of personal information can be
10 traced, in part, to disposal policies and methods that make it easy for
11 unscrupulous persons to obtain and use that information to the
12 detriment of the public. Accordingly, the legislature declares that
13 all organizations and individuals have a continuing obligation to
14 ensure the security and confidentiality of personal information during
15 the process of disposing of that information.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Entity" includes a sole proprietor, partnership, corporation,
2 limited liability company, trust, association, financial institution,
3 governmental entity, other than the federal government, and any other
4 individual or group, engaged in a trade, occupation, enterprise,
5 governmental function, or similar activity in this state, however
6 organized and whether organized to operate at a profit.

7 (2) "Destroy personal information" means shredding, erasing, or
8 otherwise modifying personal information in records to make the
9 personal information unreadable or undecipherable through any
10 reasonable means.

11 (3) "Individual" means a natural person, except that if the
12 individual is under a legal disability, "individual" includes a parent
13 or duly appointed legal representative.

14 (4) "Personal financial" and "health information" mean information
15 that is identifiable to an individual and that is commonly used for
16 financial or health care purposes, including account numbers, access
17 codes or passwords, information gathered for account security purposes,
18 credit card numbers, information held for the purpose of account access
19 or transaction initiation, or information that relates to medical
20 history or status.

21 (5) "Personal identification number issued by a government entity"
22 means a tax identification number, social security number, driver's
23 license or permit number, state identification card number issued by
24 the department of licensing, or any other number or code issued by a
25 government entity for the purpose of personal identification that is
26 protected and is not available to the public under any circumstances.

27 (6) "Record" includes any material, regardless of the physical
28 form, on which information is recorded or preserved by any means,
29 including in written or spoken words, graphically depicted, printed, or
30 electromagnetically transmitted. "Record" does not include publicly
31 available directories containing information an individual has
32 voluntarily consented to have publicly disseminated or listed, such as
33 name, address, or telephone number.

34 NEW SECTION. **Sec. 3.** (1) An entity must take all reasonable steps
35 to destroy, or arrange for the destruction of, personal financial and
36 health information and personal identification numbers issued by
37 government entities in an individual's records within its custody or

1 control when the entity is disposing of records that it will no longer
2 retain.

3 (2) An entity is not liable under this section for records it has
4 relinquished to the custody and control of the individual to whom the
5 records pertain.

6 (3) This subsection does not apply to the disposal of records by a
7 transfer of the records, not otherwise prohibited by law, to another
8 entity, including a transfer to archive or otherwise preserve public
9 records as required by law.

10 (4) An individual injured by the failure of an entity to comply
11 with subsection (1) of this section may bring a civil action in a court
12 of competent jurisdiction. The court may:

13 (a) If the failure to comply is due to negligence, award a penalty
14 of two hundred dollars or actual damages, whichever is greater, and
15 costs and reasonable attorneys' fees; and

16 (b) If the failure to comply is willful, award a penalty of six
17 hundred dollars or damages equal to three times actual damages,
18 whichever is greater, and costs and reasonable attorneys' fees.
19 However, treble damages may not exceed ten thousand dollars.

20 (5) An individual having reason to believe that he or she may be
21 injured by an act or failure to act that does not comply with
22 subsection (1) of this section may apply to a court of competent
23 jurisdiction to enjoin the act or failure to act. The court may grant
24 an injunction with terms and conditions as the court may deem
25 equitable.

26 (6) The attorney general may bring a civil action in the name of
27 the state for damages, injunctive relief, or both, against an entity
28 that fails to comply with subsection (1) of this section. The court
29 may award damages that are the same as those awarded to individual
30 plaintiffs under subsection (4) of this section.

31 (7) The rights and remedies provided under this section are in
32 addition to any other rights or remedies provided by law.

33 NEW SECTION. **Sec. 4.** Any bank, financial institution, health care
34 organization, or other entity that is subject to the federal
35 regulations under the interagency guidelines establishing standards for
36 safeguarding customer information (12 C.F.R. 208 Appendix D-2, 12
37 C.F.R. 364 Appendix B, 12 C.F.R. 30 Appendix B, 12 C.F.R. 570 Appendix
38 B); the guidelines for safeguarding member information (12 C.F.R. 748

1 Appendix A); and the standards for privacy of individually identifiable
2 health information (45 C.F.R. 160 and 164), and which is in compliance
3 with these federal guidelines, is in compliance with the requirements
4 of this chapter.

5 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
6 a new chapter in Title 19 RCW.

Passed the House February 16 2002.

Passed the Senate March 5, 2002.

Approved by the Governor March 22, 2002.

Filed in Office of Secretary of State March 22, 2002.