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I N   S E N A T E

March 2, 2012

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Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the disclosure of social security numbers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. The general business law is amended by adding a new section  
2     399-ddd to read as follows:  
3     S 399-DDD. DISCLOSURE OF SOCIAL SECURITY NUMBER. 1. AS USED IN THIS  
4     SECTION, "SOCIAL SECURITY ACCOUNT NUMBER" SHALL INCLUDE THE NUMBER  
5     ISSUED BY THE FEDERAL SOCIAL SECURITY ADMINISTRATION AND ANY NUMBER  
6     DERIVED FROM SUCH NUMBER. SUCH TERM SHALL NOT INCLUDE ANY NUMBER THAT  
7     HAS BEEN ENCRYPTED.  
8     2. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION, NOT  
9     INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, SHALL REQUIRE AN  
10    INDIVIDUAL TO DISCLOSE OR FURNISH HIS OR HER SOCIAL SECURITY ACCOUNT  
11    NUMBER, FOR ANY PURPOSE IN CONNECTION WITH ANY ACTIVITY, OR TO REFUSE  
12    ANY SERVICE, PRIVILEGE OR RIGHT TO AN INDIVIDUAL WHOLLY OR PARTLY  
13    BECAUSE SUCH INDIVIDUAL REFUSES TO DISCLOSE OR FURNISH SUCH NUMBER,  
14    UNLESS ONE OF THE EXCEPTIONS ENUMERATED IN SUBDIVISION THREE OF THIS  
15    SECTION APPLIES.  
16    3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IN THE FOLLOWING  
17    INSTANCES:  
18    (A) THE INDIVIDUAL CONSENTS TO THE ACQUISITION OR USE OF HIS OR HER  
19    SOCIAL SECURITY ACCOUNT NUMBER.  
20    (B) THE SOCIAL SECURITY ACCOUNT NUMBER IS EXPRESSLY REQUIRED BY FEDER-  
21    AL, STATE, OR LOCAL LAW OR REGULATION.  
22    (C) THE SOCIAL SECURITY ACCOUNT NUMBER IS TO BE USED FOR INTERNAL  
23    VERIFICATION OR FRAUD INVESTIGATION.  
24    (D) THE SOCIAL SECURITY ACCOUNT NUMBER IS TO BE USED FOR ANY BUSINESS  
25    FUNCTION PERMITTED OR ALLOWED UNDER THE GRAMM LEACH BLILEY ACT, P.L.  
26    106-102 (1999).  
27    (E) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH  
28    A REQUEST FOR CREDIT OR A CREDIT TRANSACTION INITIATED BY THE CONSUMER

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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OR IN CONNECTION WITH A LAWFUL REQUEST FOR A CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT, AS SUCH TERMS ARE DEFINED IN SECTION THREE HUNDRED EIGHTY-A OF THIS CHAPTER.

(F) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH A DEPOSIT ACCOUNT OR AN INVESTMENT.

(G) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR PURPOSES OF EMPLOYMENT, INCLUDING IN THE COURSE OF THE ADMINISTRATION OF A CLAIM, BENEFIT, OR PROCEDURE RELATED TO THE INDIVIDUAL'S EMPLOYMENT BY THE PERSON, INCLUDING THE INDIVIDUAL'S TERMINATION FROM EMPLOYMENT, RETIREMENT FROM EMPLOYMENT, INJURY SUFFERED DURING THE COURSE OF EMPLOYMENT, OR TO CHECK ON AN UNEMPLOYMENT INSURANCE CLAIM OF THE INDIVIDUAL.

(H) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR PURPOSES OF TAX COMPLIANCE.

(I) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR THE PURPOSE OF:

I. THE COLLECTION OF CHILD OR SPOUSAL SUPPORT;

II. DETERMINING WHETHER AN INDIVIDUAL HAS A CRIMINAL RECORD; OR

III. BLOOD OR ORGAN DONATION.

(J) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH ANY INTERACTION WITH A GOVERNMENTAL LAW ENFORCEMENT AGENCY OR IS USED IN CONJUNCTION WITH THE ENFORCEMENT OF A JUDGMENT OF A COURT OF COMPETENT JURISDICTION BY A SHERIFF OR MARSHAL.

(K) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED FOR THE PURPOSE OF VERIFYING AN INDIVIDUAL'S IDENTITY OR AGE IN ORDER TO ALLOW SUCH INDIVIDUAL TO OBTAIN ACCESS TO, OR ENROLL IN, A MARKETING PROGRAM THAT IS RESTRICTED TO INDIVIDUALS OF A CERTAIN AGE.

(L) I. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY AN INDIVIDUAL, FIRM, CORPORATION, OR OTHER ENTITY DOING BUSINESS PURSUANT TO A FRANCHISE ISSUED BY A POLITICAL SUBDIVISION OF THE STATE OR A LICENSE, FRANCHISE, CERTIFICATE OR OTHER AUTHORIZATION ISSUED BY THE NEW YORK STATE PUBLIC SERVICE COMMISSION.

II. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY AN INDIVIDUAL, FIRM, CORPORATION, OR OTHER ENTITY REGULATED BY THE NEW YORK STATE PUBLIC SERVICE COMMISSION, THE FEDERAL COMMUNICATIONS COMMISSION, OR THE FEDERAL ENERGY REGULATORY COMMISSION.

III. THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY A BANKING INSTITUTION, AS DEFINED IN SECTION NINE-F OF THE BANKING LAW, OR ONE OF ITS AFFILIATES.

(M) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED BY AN AUTHORIZED INSURER, AS DEFINED IN SECTION ONE HUNDRED SEVEN OF THE INSURANCE LAW, FOR THE PURPOSE OF FURNISHING INFORMATION TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES WITHIN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

4. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-

1 TION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY  
2 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE  
3 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-  
4 TICE LAW AND RULES. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION  
5 OF SUBDIVISION TWO OF THIS SECTION HAS OCCURRED, THE COURT SHALL IMPOSE  
6 A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS. THE SECOND  
7 OFFENSE AND ANY OFFENSE COMMITTED THEREAFTER SHALL BE PUNISHABLE BY A  
8 CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

9 5. ANY PERSON WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF THIS  
10 SECTION MAY BRING AN ACTION IN HIS OR HER OWN NAME TO ENJOIN SUCH UNLAW-  
11 FUL ACT OR PRACTICE, AN ACTION TO RECOVER HIS OR HER ACTUAL DAMAGES OR  
12 FIFTY DOLLARS, WHICHEVER IS GREATER, OR BOTH SUCH ACTIONS. THE COURT  
13 MAY, IN ITS DISCRETION, INCREASE THE AWARD OF DAMAGES TO AN AMOUNT NOT  
14 TO EXCEED THREE TIMES THE ACTUAL DAMAGES UP TO ONE THOUSAND DOLLARS, IF  
15 THE COURT FINDS THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THIS  
16 SECTION. THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING  
17 PLAINTIFF.

18 6. NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHALL BE  
19 DEEMED TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION IF SUCH PERSON,  
20 FIRM, PARTNERSHIP, ASSOCIATION OR CORPORATION SHOWS, BY A PREPONDERANCE  
21 OF THE EVIDENCE, THAT THE VIOLATION WAS NOT INTENTIONAL AND RESULTED  
22 FROM A BONA FIDE ERROR MADE NOTWITHSTANDING THE MAINTENANCE OF PROCE-  
23 DURES REASONABLY ADOPTED TO AVOID SUCH ERROR.

24 S 2. This act shall take effect on the one hundred twentieth day after  
25 it shall have become a law.