

3002

2011-2012 Regular Sessions

I N S E N A T E

February 7, 2011

Introduced by Sen. KRUGER -- 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.

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

LBD01061-01-1

(D) THE SOCIAL SECURITY ACCOUNT NUMBER IS TO BE USED FOR ANY BUSINESS FUNCTION PERMITTED OR ALLOWED UNDER THE GRAMM LEACH BLILEY ACT, P.L. 106-102 (1999).

(E) THE SOCIAL SECURITY ACCOUNT NUMBER IS REQUESTED IN CONNECTION WITH A REQUEST FOR CREDIT OR A CREDIT TRANSACTION INITIATED BY THE CONSUMER 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.

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.