

980

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PHEFFER, ENGLEBRIGHT -- Multi-Sponsored by -- M.
of A. LUPARDO, McDONOUGH -- read once and referred to the Committee on
Governmental Operations

AN ACT to amend the general business law, in relation to personal information restrictions for public records

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-j to read as follows:
3 S 399-J. PERSONAL INFORMATION RESTRICTIONS FOR PUBLIC RECORDS. 1. NO
4 PERSON OR BUSINESS ENTITY SHALL INTENTIONALLY CREATE AN INSTRUMENT
5 AVAILABLE FOR PUBLIC INSPECTION THAT IS TO BE FILED WITH OR SUBMITTED TO
6 AN AGENCY CONTAINING PERSONAL IDENTIFYING INFORMATION OF ANY OTHER
7 PERSON, UNLESS SUCH OTHER PERSON IS A DEPENDENT CHILD OR HAS CONSENTED
8 TO THE INCLUSION OF SUCH PERSONAL IDENTIFYING INFORMATION, WHICH IS NOT:
9 (A) RELEVANT AND NECESSARY TO ACCOMPLISH THE PURPOSE OF THE FILING; OR
10 (B) REQUIRED BY FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, OR BY
11 COURT RULE.
12 FOR THE PURPOSE OF THIS SECTION, THE PRINTING OR OTHER REPRODUCTION OF
13 A DOCUMENT RECEIVED BY ELECTRONIC OR ANY OTHER MEANS DOES NOT CONSTITUTE
14 CREATION OF THE DOCUMENT.
15 2. ANY AGENCY THAT RECEIVES INSTRUMENTS FOR FILING SHALL POST IN A
16 PLACE OR PLACES, CLEARLY VISIBLE TO ALL PERSONS, ADJACENT TO OR NEAR THE
17 LOCATION WHERE SUCH AGENCY HAS DESIGNATED FOR THE RECEIPT OF INSTRUMENTS
18 FOR FILING, A NOTICE DESCRIBING THE PROHIBITION CONTAINED IN SUBDIVISION
19 ONE OF THIS SECTION AND SUBDIVISION SIX OF SECTION THREE HUNDRED NINE-
20 TY-NINE-DD, AS ADDED BY CHAPTER TWO HUNDRED SEVENTY-NINE OF THE LAWS OF
21 TWO THOUSAND EIGHT, OF THIS ARTICLE.
22 3. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL MEAN:

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

LBD00862-01-1

1 (A) "AGENCY" MEANS ANY STATE OR MUNICIPAL DEPARTMENT, BOARD, BUREAU,
2 DIVISION, COMMISSION, COMMITTEE, PUBLIC AUTHORITY, PUBLIC CORPORATION,
3 COUNCIL, OFFICE OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL
4 OR PROPRIETARY FUNCTION FOR THE STATE OR ANY ONE OR MORE MUNICIPALITIES
5 THEREOF, EXCEPT THE JUDICIARY OR THE STATE LEGISLATURE;

6 (B) "PERSONAL IDENTIFYING INFORMATION" MEANS A DRIVER'S LICENSE
7 NUMBER, MOTHER'S MAIDEN NAME, CONSUMER CREDIT ACCOUNT NUMBER OR CODE,
8 SAVINGS ACCOUNT NUMBER OR CODE, CHECKING ACCOUNT NUMBER OR CODE, OR
9 DEBIT CARD NUMBER OR CODE.

10 4. UPON ANY VIOLATION OF THE PROVISIONS OF THIS SECTION, AN APPLICA-
11 TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF
12 THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION TO ISSUE
13 AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE
14 DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF THE VIOLATION. IF IT
15 SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE
16 DEFENDANT HAS VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY THE
17 COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITH-
18 OUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR
19 DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES
20 TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A)
21 OF SECTION EIGHT THOUSAND THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW
22 AND RULES, AND DIRECT RESTITUTION. IN CONNECTION WITH AN APPLICATION
23 MADE UNDER THIS SECTION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE
24 PROOF AND TO MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE
25 SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES. ANY
26 PENALTY OR INJUNCTION FOR A VIOLATION OF SUBDIVISION ONE OF THIS SECTION
27 SHALL BE ASSESSED AGAINST THE PERSON OR BUSINESS ENTITY THAT CREATED THE
28 INSTRUMENT. NO PERSON, BUSINESS ENTITY OR AGENCY SHALL BE DEEMED TO HAVE
29 VIOLATED THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION IF SUCH
30 PERSON, BUSINESS ENTITY OR AGENCY HAD NO INVOLVEMENT IN THE CREATION OF
31 THE INSTRUMENT, OR CREATED THE INSTRUMENT WITHOUT THE INTENTION OR KNOW-
32 LEDGE THAT THE INSTRUMENT WAS TO BE FILED WITH AN AGENCY.

33 S 2. This act shall take effect on the ninetieth day after it shall
34 have become a law.