

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2752 Session of  
2010

INTRODUCED BY COHEN, BAKER, CALTAGIRONE, DENLINGER, FAIRCHILD,  
FREEMAN, GEORGE, GOODMAN, JOSEPHS, MICOZZIE, MILLER, MILNE,  
PYLE, READSHAW, SIPTROTH, K. SMITH, SWANGER, TALLMAN, WAGNER  
AND CASORIO, SEPTEMBER 22, 2010

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 22, 2010

AN ACT

1 Relating to the disposal of records containing certain personal  
2 identifying information.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Definitions.

6 The following words and phrases when used in this act shall  
7 have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Dispose." To throw out or away or to get rid of and shall  
10 not include a sale of a record or the transfer of a record for  
11 value.

12 "Personal identification number." Any number or code which  
13 may be used alone or in conjunction with any other information  
14 to assume the identity of another person or access financial  
15 resources or credit of another person.

16 "Personal identifying information." Personal information  
17 consisting of any information in combination with any one or

1 more of the following data elements, when either the personal  
2 information or the data element is not encrypted or encrypted  
3 with an encryption key that is included in the same record as  
4 the encrypted personal information or data element:

5 (1) Social Security number.

6 (2) Driver's license number or nondriver identification  
7 card number.

8 (3) Mother's maiden name, financial services account  
9 number or code, savings account number or code, checking  
10 account number or code, debit card number or code, automated  
11 teller machine number or code, electronic serial number or  
12 personal identification number.

13 (4) Date of birth.

14 "Personal information." Any information concerning a natural  
15 person which, because of name, number, personal mark or other  
16 identifier, can be used to identify such natural person.

17 "Record." Any information kept, held, filed, produced or  
18 reproduced by, with or for a person or business entity, in any  
19 physical form whatsoever, including, but not limited to,  
20 reports, statements, examinations, memoranda, opinions, folders,  
21 files, books, manuals, pamphlets, forms, papers, designs,  
22 drawings, maps, photos, letters, microfilms or computer tapes or  
23 discs.

24 Section 2. Disposal of records containing personal identifying  
25 information.

26 (a) Disposal of records.--No person, business, firm,  
27 partnership, association, corporation or governmental entity  
28 shall dispose of a record containing personal identifying  
29 information unless the person, business, firm, partnership,  
30 association, corporation, governmental entity or any other

1 person under contract to dispose of the record does any of the  
2 following:

3 (1) shreds the record before the disposal of the record;

4 (2) destroys the personal identifying information  
5 contained in the record;

6 (3) modifies the record to make the personal identifying  
7 information unreadable; or

8 (4) takes actions consistent with commonly accepted  
9 industry practices that it reasonably believes will ensure  
10 that no unauthorized person will have access to the personal  
11 identifying information contained in the record.

12 (b) Exemption.--An individual person shall not be required  
13 to comply with this section unless he or she is conducting  
14 business for profit.

### 15 Section 3. Penalties; disposal and use.

16 (a) Violation.--Whenever there shall be a violation of this  
17 act, an application may be made by the Attorney General in the  
18 name of the people of the Commonwealth of Pennsylvania to a  
19 court having jurisdiction to issue an injunction, and upon  
20 notice to the defendant of not less than five days, to enjoin  
21 and restrain the continuance of such violations; and if it shall  
22 appear to the satisfaction of the court that the defendant has,  
23 in fact, violated this act, an injunction may be issued by such  
24 court enjoining and restraining any further violation, without  
25 requiring proof that any person has, in fact, been injured or  
26 damaged thereby. Whenever a court shall determine that a  
27 violation of this act occurred, the court may impose a civil  
28 penalty of not more than \$5,000.

29 (b) Multiple acts.--Acts arising out of the same incident or  
30 occurrence shall constitute a single violation.

1       (c) Defense.--It shall be an affirmative defense to a  
2 violation of section 2 if the business can show that it used due  
3 diligence in its attempt to properly dispose of such records.  
4 Section 4. Effective date.  
5       This act shall take effect in 60 days.