

HOUSE No. 326

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to identity theft..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 62A of chapter 93 of the General Laws, as inserted by Chapter 82
2 of the Acts of 2007, is hereby amended in line 103 by inserting after the word “fraud” the
3 following: or the likelihood of fraud.

4 SECTION 2. Section 1 of chapter 93H of the General Laws, as so appearing, is hereby
5 amended by striking out the definition of “Encrypted” in its entirety and inserting in place
6 thereof the following:

7 “Encrypted”, the transformation of data through the use of an algorithmic process, or an
8 alternate method at least as secure, into a form in which meaning cannot be assigned without use
9 of a confidential process or key, unless further defined by regulation by the department of
10 consumer affairs and business regulation.

11 SECTION 3. Said section 1 of chapter 93H, as so appearing, is hereby further amended
12 by inserting after the definition of “encrypted” the following:

13 “Nature of the breach”, information regarding a breach of security whose disclosure
14 would substantially increase the risk of identity theft or fraud.

15 SECTION 4. Said section 1 of chapter 93H, as so appearing, is hereby further amended
16 by inserting after the definition of “notice” the following:

17 “Owns or licenses”, retains as part of the person’s or agency’s internal customer account
18 or for the purpose of using that information in transactions with the person to whom the
19 information relates.

20 SECTION 5. Subsection (a) of Section 2 of chapter 93H of the General Laws, as so
21 appearing, is hereby amended by striking out in the third sentence the words “customer
22 information” and inserting in place thereof the following: personal information

23 SECTION 6. Said subsection (a) of Section 2 of chapter 93H of the General Laws, as so
24 appearing, is hereby further amended by striking out in the third sentence the words
25 “inconvenience to any consumer” and inserting in place thereof the following: inconvenience to
26 any resident of the commonwealth.

27 SECTION 7. Subsection (c) of Section 2 of chapter 93H of the General Laws, as so
28 appearing, is hereby amended by striking out in the second sentence the words “customer
29 information” and inserting in place thereof the following: personal information

30 SECTION 8. In subsection (a) of Section 3 of chapter 93H of the General Laws, as so
31 appearing, is hereby amended by striking out in the first sentence the following:

32 “or (2) when the person or agency knows or has reason to know that the personal
33 information of such resident was acquired or used by an unauthorized person or used for an
34 unauthorized purpose”

35 SECTION 9. Said subsection (a) of Section 3 of said chapter 93H of the General Laws, as
36 so appearing, is hereby further amended by striking out the third sentence and inserting in place
37 thereof: “Such cooperation shall include, but not be limited to, informing the owner or licensor
38 of the breach of security, the date or approximate date of such incident and the nature thereof,
39 and any steps the person or agency has taken or plans to take relating to the incident, except that
40 such cooperation shall not be deemed to require the disclosure of confidential business
41 information or trade secrets, or to provide notice to a resident that may have been affected by the
42 breach of security.”

43 SECTION 10. Subsection (b) of said section 3 of said chapter 93H of the General Laws,
44 as so appearing, is hereby further amended by striking out in the first sentence the following:

45 “or (2) when the person or agency knows or has reason to know that the personal
46 information of such resident was acquired or used by an unauthorized person or used for an
47 unauthorized purpose”

48 SECTION 11. Subsection (b) of said section 3 of said chapter 93H of the General Laws,
49 as so appearing, is hereby further amended by striking out in the second sentence the following:
50 “or unauthorized acquisition or use”

51 SECTION 12. Subsection (b) of said section 3 of said chapter 93H of the General Laws,
52 as so appearing, is hereby further amended by striking out in the third paragraph after the words

53 “said notification shall not include the nature of the breach” the following: “or unauthorized
54 acquisition or use”

55 SECTION 13. Subsection (b) of said section 3 of said chapter 93H of the General Laws,
56 as so appearing, is hereby further amended by striking out in the third paragraph after the words
57 “the number of residents of the commonwealth affected by said breach” the following: “or
58 unauthorized access or use”

59 SECTION 14. Subsection (c) of said section 3 of said chapter 93H of the General Laws,
60 as so appearing, is hereby amended by striking out “or unauthorized acquisition or use” in both
61 places it appears.

62 SECTION 15. Section 4 of chapter 93H of the General Laws, as so appearing, is hereby
63 amended by striking out in the third sentence the following: “or unauthorized acquisition or use”