

1 **SENATE FLOOR VERSION**

2 February 21, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 614

5 By: Newberry

6 **[ Security Breach Notification Act - notice**  
7 **requirement - effective date ]**

8  
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 24 O.S. 2011, Section 163, is  
11 amended to read as follows:

12 Section 163. A. An individual or entity that owns or licenses  
13 computerized data that includes personal information shall disclose  
14 any breach of the security of the system following discovery or  
15 notification of the breach of the security of the system to each  
16 financial institution that issued a credit or debit card compromised  
17 by the breach and to any resident of this state whose unencrypted  
18 and unredacted personal information was or is reasonably believed to  
19 have been accessed and acquired by an unauthorized person and that  
20 causes, or the individual or entity reasonably believes has caused  
21 or will cause, identity theft or other fraud to any resident of this  
22 state. Except as provided in subsection D of this section or in  
23 order to take any measures necessary to determine the scope of the  
24

1 breach and to restore the reasonable integrity of the system, the  
2 disclosure shall be made without unreasonable delay.

3 B. An individual or entity must disclose the breach of the  
4 security of the system if encrypted information is accessed and  
5 acquired in an unencrypted form or if the security breach involves a  
6 person with access to the encryption key and the individual or  
7 entity reasonably believes that such breach has caused or will cause  
8 identity theft or other fraud to any resident of this state. A  
9 person who conducts business in this state and owns or licenses  
10 computerized data that includes sensitive personal information  
11 shall, no later than the third business day after the date the  
12 person discovers or receives notification of a breach of system  
13 security compromising credit or debit card information, disclose the  
14 breach to the Office of the Attorney General.

15 C. An individual or entity that maintains computerized data  
16 that includes personal information that the individual or entity  
17 does not own or license shall notify the owner or licensee of the  
18 information of any breach of the security of the system as soon as  
19 practicable following discovery, if the personal information was or  
20 if the entity reasonably believes was accessed and acquired by an  
21 unauthorized person.

22 D. Notice required by this section may be delayed if a law  
23 enforcement agency determines and advises the individual or entity  
24 that the notice will impede a criminal or civil investigation or

1 homeland or national security. Notice required by this section must  
2 be made without unreasonable delay after the law enforcement agency  
3 determines that notification will no longer impede the investigation  
4 or jeopardize national or homeland security.

5 SECTION 2. AMENDATORY 24 O.S. 2011, Section 165, is  
6 amended to read as follows:

7 Section 165. A. A violation of ~~this act~~ the Security Breach  
8 Notification Act that results in injury or loss to residents of this  
9 state or to a financial institution may be enforced by the Attorney  
10 General or a district attorney in the same manner as an unlawful  
11 practice under the Oklahoma Consumer Protection Act.

12 B. ~~Except as provided in subsection C of this section, the~~ The  
13 Attorney General or a district attorney shall have exclusive  
14 authority to bring action and may obtain either actual damages for a  
15 violation of ~~this act~~ the Security Breach Notification Act or a  
16 civil penalty not to exceed One Hundred Fifty Thousand Dollars  
17 (\$150,000.00) per breach of the security of the system or series of  
18 breaches of a similar nature that are discovered in a single  
19 investigation. In determining actual damages in an action  
20 concerning injury or loss to a financial institution, the Attorney  
21 General or district attorney may consider costs incurred by the  
22 financial institution for accounts affected by the breach including,  
23 but not limited to:

24 1. The cancellation and reissuance of a credit or debit card;

- 1        2. The closing of an account and any action to stop payment or  
2 block a transaction with respect to the account;  
3        3. The opening or reopening of an account;  
4        4. A refund or credit made to an account holder to cover the  
5 cost of any unauthorized transaction; and  
6        5. The notification of account holders.

7        ~~C. A violation of this act by a state-chartered or state-~~  
8 ~~licensed financial institution shall be enforceable exclusively by~~  
9 ~~the primary state regulator of the financial institution.~~

10        SECTION 3. This act shall become effective November 1, 2017.

11        COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
12        February 21, 2017 - DO PASS AS AMENDED