

REFERENCE TITLE: **personal data; processing; security standards**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2790

Introduced by
Representatives DeGrazia: Andrade, Cano, Mathis, Pawlik, Powers Hannley

AN ACT

AMENDING TITLE 18, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; RELATING TO PERSONAL DATA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 18, chapter 5, Arizona Revised Statutes, is
3 amended by adding article 5, to read:

4 ARTICLE 5. DATA AND SECURITY STANDARDS

5 18-571. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COLLECT" MEANS RECEIVING AND TAKING, INCLUDING BY AUTOMATED
8 MEANS, ANY OPERATION OR SET OF OPERATIONS TO OBTAIN PERSONAL DATA,
9 INCLUDING PURCHASING, LEASING, ASSEMBLING, RECORDING, GATHERING, ACQUIRING
10 OR PROCURING PERSONAL DATA.

11 2. "CONSENT" MEANS A CLEAR, AFFIRMATIVE ACT SIGNIFYING A SPECIFIC,
12 INFORMED AND UNAMBIGUOUS INDICATION OF A CONSUMER'S AGREEMENT TO COLLECT
13 OR PROCESS THE CONSUMER'S PERSONAL DATA, SUCH AS BY A WRITTEN STATEMENT OR
14 OTHER CLEAR AFFIRMATIVE ACTION.

15 3. "CONSUMER":

16 (a) MEANS A NATURAL PERSON WHO IS A RESIDENT OF THIS STATE AND WHO
17 IS ACTING ONLY IN AN INDIVIDUAL, NONCOMMERCIAL OR HOUSEHOLD CONTEXT.

18 (b) DOES NOT INCLUDE A NATURAL PERSON WHO IS ACTING IN A COMMERCIAL
19 OR EMPLOYMENT CONTEXT.

20 4. "CONTROLLER" MEANS THE NATURAL OR LEGAL PERSON THAT, ALONE OR
21 JOINTLY WITH OTHERS, DETERMINES THE PURPOSES AND MEANS OF PROCESSING
22 PERSONAL DATA.

23 5. "DATA BROKER" MEANS A BUSINESS, OR A UNIT OR UNITS OF A
24 BUSINESS, SEPARATELY OR TOGETHER, THAT KNOWINGLY COLLECTS AND SELLS OR
25 LICENSES TO THIRD PARTIES THE PERSONAL INFORMATION OF A CONSUMER WITH WHOM
26 THE BUSINESS DOES NOT HAVE A DIRECT RELATIONSHIP.

27 6. "DEIDENTIFIED DATA" MEANS:

28 (a) DATA THAT CANNOT BE LINKED TO A KNOWN NATURAL PERSON WITHOUT
29 ADDITIONAL INFORMATION KEPT SEPARATELY.

30 (b) DATA THAT MEETS ALL OF THE FOLLOWING:

31 (i) HAS BEEN MODIFIED TO A DEGREE THAT THE RISK OF REIDENTIFICATION
32 IS SMALL.

33 (ii) IS SUBJECT TO A PUBLIC COMMITMENT BY THE CONTROLLER NOT TO
34 ATTEMPT TO REIDENTIFY.

35 (iii) TO WHICH ONE OR MORE ENFORCEABLE CONTROLS HAVE BEEN APPLIED
36 TO PREVENT REIDENTIFICATION. FOR THE PURPOSES OF THIS ITEM, "ENFORCEABLE
37 CONTROLS" INCLUDES LEGAL, ADMINISTRATIVE, TECHNICAL OR CONTRACTUAL
38 CONTROLS.

39 7. "DISCLOSE" MEANS TAKING ANY ACTION, WITH RESPECT TO PERSONAL
40 DATA, INCLUDING BY AUTOMATED MEANS, TO SELL, SHARE, PROVIDE OR OTHERWISE
41 TRANSFER PERSONAL DATA TO ANOTHER ENTITY OR PERSON OR THE GENERAL PUBLIC.

42 8. "IDENTIFIED OR IDENTIFIABLE NATURAL PERSON" MEANS A PERSON WHO
43 CAN BE READILY IDENTIFIED, DIRECTLY OR INDIRECTLY.

- 1 9. "PERSONAL DATA" OR "PERSONAL INFORMATION":
2 (a) MEANS ANY INFORMATION THAT IS OR CAN REASONABLY BE LINKED TO AN
3 IDENTIFIED OR IDENTIFIABLE NATURAL PERSON.
4 (b) INCLUDES SENSITIVE DATA.
5 (c) DOES NOT INCLUDE DEIDENTIFIED DATA OR PUBLICLY AVAILABLE
6 INFORMATION.
7 10. "PROCESS" OR "PROCESSING" MEANS COLLECTING, USING, STORING,
8 DISCLOSING, ANALYZING, DELETING OR MODIFYING PERSONAL DATA, INCLUDING BY
9 AUTOMATED MEANS.
10 11. "PROCESSOR" MEANS A NATURAL OR LEGAL PERSON THAT PROCESSES
11 PERSONAL DATA ON BEHALF OF THE CONTROLLER.
12 12. "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING OF PERSONAL
13 DATA CONSISTING OF USING PERSONAL DATA TO EVALUATE CERTAIN PERSONAL
14 ASPECTS ABOUT A NATURAL PERSON, PARTICULARLY ANALYZING OR PREDICTING
15 ASPECTS OF THAT NATURAL PERSON'S ECONOMIC SITUATION, HEALTH, PERSONAL
16 PREFERENCES, INTERESTS, RELIABILITY, BEHAVIOR, LOCATION OR MOVEMENTS.
17 13. "RESTRICTION OF PROCESSING" MEANS MARKING STORED PERSONAL DATA
18 WITH THE AIM OF LIMITING THE PROCESSING OF SUCH PERSONAL DATA IN THE
19 FUTURE.
20 14. "SALE":
21 (a) MEANS THE EXCHANGE OF PERSONAL DATA FOR MONETARY CONSIDERATION
22 BY THE CONTROLLER TO A THIRD PARTY, INCLUDING FOR THE PURPOSES OF
23 LICENSING OR SELLING PERSONAL DATA AT THE THIRD PARTY'S DISCRETION TO
24 ADDITIONAL THIRD PARTIES.
25 (b) DOES NOT INCLUDE DISCLOSING PERSONAL DATA TO EITHER OF THE
26 FOLLOWING:
27 (i) A PROCESSOR THAT PROCESSES THE PERSONAL DATA ON BEHALF OF THE
28 CONTROLLER.
29 (ii) A THIRD PARTY WITH WHOM THE CONSUMER HAS A DIRECT RELATIONSHIP
30 FOR PURPOSES OF PROVIDING A PRODUCT OR SERVICE REQUESTED BY THE CONSUMER
31 OR OTHERWISE IN A MANNER THAT IS CONSISTENT WITH THE CONSUMER'S REASONABLE
32 EXPECTATIONS CONSIDERING THE CONTEXT IN WHICH THE CONSUMER PROVIDED THE
33 PERSONAL DATA TO THE CONTROLLER.
34 15. "SENSITIVE DATA" MEANS:
35 (a) PERSONAL DATA THAT REVEALS A NATURAL PERSON'S RACIAL OR ETHNIC
36 ORIGINS, RELIGIOUS BELIEFS, MENTAL, PHYSICAL, BEHAVIORAL OR PSYCHOLOGICAL
37 HEALTH CONDITIONS OR DIAGNOSES OR SEX LIFE OR SEXUAL ORIENTATION.
38 (b) GENETIC OR BIOMETRIC DATA THAT IS PROCESSED TO UNIQUELY
39 IDENTIFY A NATURAL PERSON.
40 (c) THE PRECISE GEOLOCATION INFORMATION OF A DEVICE ASSOCIATED WITH
41 A NATURAL PERSON.
42 (d) THE PERSONAL DATA OF A KNOWN CHILD.

1 B. THIS SECTION DOES NOT REQUIRE A CONTROLLER TO:
2 1. RETAIN ANY PERSONAL DATA COLLECTED FOR A SINGLE, ONETIME
3 TRANSACTION IF THE CONTROLLER DOES NOT SELL OR RETAIN THE INFORMATION.
4 2. REIDENTIFY OR OTHERWISE LINK ANY DATA THAT, IN THE ORDINARY
5 COURSE OF THE CONTROLLER, IS NOT MAINTAINED IN A MANNER THAT WOULD BE
6 CONSIDERED PERSONAL DATA.
7 C. A CONTROLLER IS PRESUMED TO HAVE SOLD PERSONAL DATA IF THERE IS
8 AN EXCHANGE OF PERSONAL DATA AND IF CONTRACT TERMS WITH THE THIRD PARTY DO
9 NOT LIMIT THE USE OF PERSONAL INFORMATION BY THE THIRD PARTY.
10 D. THIS SECTION DOES NOT ADVERSELY AFFECT THE RIGHTS OR FREEDOMS OF
11 OTHERS.
12 18-573. Personal data; correction; deletion; verified
13 requests; requirements; exceptions
14 A. ON RECEIPT OF A VERIFIED REQUEST FROM A CONSUMER, THE
15 CONTROLLER, WITHOUT UNDUE DELAY, SHALL CORRECT INACCURATE PERSONAL DATA
16 CONCERNING THE CONSUMER THAT THE CONTROLLER MAINTAINS IN IDENTIFIABLE
17 FORM. TAKING INTO ACCOUNT THE BUSINESS PURPOSES OF THE PROCESSING, THE
18 CONTROLLER SHALL COMPLETE INCOMPLETE PERSONAL DATA, INCLUDING BY MEANS OF
19 PROVIDING A SUPPLEMENTARY STATEMENT IF APPROPRIATE. IF THE CONTROLLER NO
20 LONGER HAS THE CONSUMER'S PERSONAL DATA, THE CONTROLLER SHALL NOTIFY THE
21 CONSUMER THAT THE PERSONAL DATA NO LONGER EXISTS AND MAY ASK IF THE
22 CONSUMER WOULD LIKE TO ADD THE CONSUMER'S PERSONAL INFORMATION.
23 B. A CONTROLLER THAT COLLECTS PERSONAL DATA ABOUT CONSUMERS SHALL
24 DISCLOSE TO EACH CONSUMER THE RIGHT TO REQUEST THE DELETION OF THE
25 CONSUMER'S PERSONAL DATA.
26 C. ON RECEIPT OF A VERIFIED REQUEST FOR DELETION FROM A CONSUMER, A
27 CONTROLLER SHALL DELETE THE CONSUMER'S PERSONAL DATA WITHOUT UNDUE DELAY
28 IF ANY OF THE FOLLOWING APPLIES:
29 1. THE PERSONAL DATA NO LONGER RELATES TO THE PURPOSES FOR WHICH
30 THE PERSONAL DATA WAS COLLECTED OR OTHERWISE PROCESSED.
31 2. FOR PROCESSING THAT REQUIRES CONSENT, THE CONSUMER WITHDRAWS
32 CONSENT TO PROCESSING AND THERE ARE NO BUSINESS PURPOSES FOR THE
33 PROCESSING.
34 3. THE PERSONAL DATA MUST BE DELETED TO COMPLY WITH A LEGAL
35 OBLIGATION UNDER A FEDERAL, STATE OR LOCAL LAW OR REGULATION TO WHICH THE
36 CONTROLLER IS SUBJECT.
37 4. THE CONTROLLER IS REQUIRED TO CERTIFY WHEN THE DELETION WAS
38 COMPLETED.
39 5. THE PERSONAL DATA HAS BEEN UNLAWFULLY PROCESSED.
40 D. A CONTROLLER OR PROCESSOR IS NOT REQUIRED TO COMPLY WITH A
41 CONSUMER'S REQUEST TO DELETE THE CONSUMER'S PERSONAL DATA IF IT IS
42 NECESSARY FOR THE CONTROLLER OR PROCESSOR TO MAINTAIN THE CONSUMER'S
43 PERSONAL DATA IN ORDER TO COMPLETE THE TRANSACTION FOR WHICH THE PERSONAL
44 DATA WAS COLLECTED, PROVIDE A GOOD OR SERVICE REQUESTED BY THE CONSUMER OR
45 REASONABLY ANTICIPATED WITHIN THE CONTEXT OF A CONTROLLER'S ONGOING

1 BUSINESS RELATIONSHIP WITH THE CONSUMER OR OTHERWISE PERFORM A CONTRACT
2 BETWEEN THE CONTROLLER AND THE CONSUMER.

3 E. IF A CONTROLLER IS REQUIRED TO DELETE PERSONAL DATA THAT THE
4 CONTROLLER MAINTAINS IN IDENTIFIABLE FORM THAT HAS BEEN DISCLOSED TO THIRD
5 PARTIES BY THE CONTROLLER, INCLUDING DATA BROKERS THAT RECEIVED THE
6 PERSONAL DATA THROUGH A SALE, THE CONTROLLER SHALL TAKE REASONABLE STEPS
7 TO INFORM OTHER CONTROLLERS OF WHICH IT IS AWARE THAT PROCESS SUCH
8 PERSONAL DATA AND THAT RECEIVED SUCH PERSONAL DATA FROM THE CONTROLLER OR
9 PROCESS SUCH PERSONAL DATA ON BEHALF OF THE CONTROLLER THAT THE CONSUMER
10 HAS REQUESTED THE OTHER CONTROLLERS TO DELETE ANY LINK TO OR COPY OR
11 REPLICATION OF THE PERSONAL DATA. COMPLIANCE WITH THIS SUBSECTION MUST
12 TAKE INTO ACCOUNT AVAILABLE TECHNOLOGY AND COST OF IMPLEMENTATION.

13 F. THIS SECTION DOES NOT APPLY TO THE EXTENT THAT PROCESSING IS
14 NECESSARY:

15 1. FOR EXERCISING THE RIGHT OF FREE SPEECH.

16 2. FOR COMPLYING WITH A LEGAL OBLIGATION THAT REQUIRES PROCESSING
17 OF PERSONAL DATA BY A FEDERAL, STATE OR LOCAL LAW OR REGULATION TO WHICH
18 THE CONTROLLER IS SUBJECT OR FOR PERFORMING A TASK CARRIED OUT IN THE
19 PUBLIC INTEREST OR IN EXERCISING OFFICIAL AUTHORITY VESTED IN THE
20 CONTROLLER.

21 3. FOR REASONS OF PUBLIC INTEREST IN THE AREA OF PUBLIC HEALTH, IF
22 THE PROCESSING IS BOTH OF THE FOLLOWING:

23 (a) SUBJECT TO SUITABLE AND SPECIFIC MEASURES TO SAFEGUARD THE
24 RIGHTS OF THE CONSUMER.

25 (b) UNDER THE RESPONSIBILITY OF A PROFESSIONAL SUBJECT TO
26 CONFIDENTIALITY OBLIGATIONS UNDER A FEDERAL, STATE OR LOCAL LAW OR
27 REGULATION.

28 4. FOR ARCHIVING PURPOSES IN THE PUBLIC INTEREST, SCIENTIFIC OR
29 HISTORICAL RESEARCH PURPOSES OR STATISTICAL PURPOSES, IF DELETING SUCH
30 PERSONAL DATA IS LIKELY TO RENDER IMPOSSIBLE OR SERIOUSLY IMPAIR THE
31 ACHIEVEMENT OF THE OBJECTIVES OF THE PROCESSING.

32 5. FOR ESTABLISHING, EXERCISING OR DEFENDING LEGAL CLAIMS.

33 6. TO DETECT OR RESPOND TO SECURITY INCIDENTS, PROTECT AGAINST
34 MALICIOUS, DECEPTIVE, FRAUDULENT OR ILLEGAL ACTIVITY OR IDENTIFY,
35 INVESTIGATE OR PROSECUTE THOSE RESPONSIBLE FOR THAT ACTIVITY.

36 18-574. Restriction of processing: verified requests:
37 requirements

38 A. ON RECEIPT OF A VERIFIED REQUEST FROM A CONSUMER, THE CONTROLLER
39 SHALL RESTRICT PROCESSING OF PERSONAL DATA IF ANY OF THE FOLLOWING
40 APPLIES:

41 1. THE ACCURACY OF THE PERSONAL DATA IS CONTESTED BY THE CONSUMER,
42 FOR A PERIOD ENABLING THE CONTROLLER TO VERIFY THE ACCURACY OF THE
43 PERSONAL DATA.

44 2. THE PROCESSING IS UNLAWFUL AND THE CONSUMER OPPOSES THE DELETION
45 OF THE PERSONAL DATA AND INSTEAD REQUESTS THE RESTRICTION OF PROCESSING.

1 3. THE CONTROLLER NO LONGER NEEDS THE PERSONAL DATA FOR THE
2 PURPOSES OF THE PROCESSING BUT SUCH PERSONAL DATA IS REQUIRED BY THE
3 CONSUMER FOR ESTABLISHING, EXERCISING OR DEFENDING LEGAL CLAIMS.

4 4. THE CONSUMER OBJECTS TO THE PROCESSING PENDING THE VERIFICATION
5 OF WHETHER THE LEGITIMATE GROUNDS OF THE CONTROLLER OVERRIDE THOSE OF THE
6 CONSUMER.

7 B. IF PERSONAL DATA IS SUBJECT TO A RESTRICTION OF PROCESSING UNDER
8 THIS SECTION, THE PERSONAL DATA, EXCEPT FOR STORAGE, MAY BE PROCESSED ONLY
9 AS FOLLOWS:

10 1. WITH THE CONSUMER'S CONSENT.

11 2. TO ESTABLISH, EXERCISE OR DEFEND LEGAL CLAIMS.

12 3. TO PROTECT THE RIGHTS OF ANOTHER NATURAL OR LEGAL PERSON.

13 4. FOR REASONS OF IMPORTANT PUBLIC INTEREST UNDER A FEDERAL, STATE
14 OR LOCAL LAW OR REGULATION.

15 C. THE CONTROLLER SHALL INFORM A CONSUMER WHO HAS OBTAINED
16 RESTRICTION OF PROCESSING PURSUANT TO THIS SECTION BEFORE THE RESTRICTION
17 OF PROCESSING IS LIFTED AND THE PROPOSED LEGAL BASIS FOR DOING SO.

18 18-575. Receiving personal data; verified requests

19 A. ON A VERIFIED REQUEST FROM A CONSUMER, THE CONTROLLER SHALL
20 PROVIDE TO THE CONSUMER, IF TECHNICALLY FEASIBLE AND COMMERCIALY
21 REASONABLE, ANY PERSONAL DATA THAT THE CONTROLLER MAINTAINS IN
22 IDENTIFIABLE FORM CONCERNING THE CONSUMER THAT THE CONSUMER HAS PROVIDED
23 TO THE CONTROLLER IN A STRUCTURED, COMMONLY USED AND MACHINE-READABLE
24 FORMAT:

25 1. IF PROCESSING THE PERSONAL DATA IS NECESSARY TO PERFORM A
26 CONTRACT TO WHICH THE CONSUMER IS A PARTY.

27 2. IN ORDER TO TAKE STEPS AT THE REQUEST OF THE CONSUMER BEFORE
28 ENTERING INTO A CONTRACT.

29 3. IF THE PROCESSING IS CARRIED OUT BY AUTOMATED MEANS.

30 B. REQUESTS FOR PERSONAL DATA UNDER THIS SECTION MUST BE WITHOUT
31 PREJUDICE TO THE CONSUMER'S RIGHT TO DELETE.

32 C. THE RIGHTS PROVIDED IN THIS SECTION DO NOT APPLY TO PROCESSING
33 NECESSARY TO PERFORM A TASK CARRIED OUT IN THE PUBLIC INTEREST OR TO
34 EXERCISE OFFICIAL AUTHORITY VESTED IN THE CONTROLLER AND MUST NOT
35 ADVERSELY AFFECT THE RIGHTS OF OTHERS.

36 18-576. Objection to processing of personal data

37 A. A CONSUMER MAY OBJECT, THROUGH A VERIFIED OBJECTION, AT ANY
38 TIME, TO THE PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER.

39 B. ON RECEIPT OF A CONSUMER'S VERIFIED OBJECTION TO PROCESSING THE
40 CONSUMER'S PERSONAL DATA FOR TARGETED ADVERTISING, WHICH INCLUDES THE SALE
41 OF PERSONAL DATA THAT CONCERNS THE CONSUMER TO THIRD PARTIES FOR PURPOSES
42 OF TARGETED ADVERTISING, THE CONTROLLER MAY NOT PROCESS THE PERSONAL DATA
43 SUBJECT TO THE OBJECTION FOR SUCH PURPOSE AND SHALL TAKE REASONABLE STEPS
44 TO COMMUNICATE THE CONSUMER'S OBJECTION, UNLESS IT PROVES IMPOSSIBLE OR
45 INVOLVES DISPROPORTIONATE EFFORT, REGARDING ANY FURTHER PROCESSING OF THE

1 CONSUMER'S PERSONAL DATA FOR THE PURPOSES TO ANY THIRD PARTIES TO WHOM THE
2 CONTROLLER SOLD THE CONSUMER'S PERSONAL DATA FOR THAT PURPOSE. THIRD
3 PARTIES SHALL HONOR OBJECTION REQUESTS PURSUANT TO THIS SECTION RECEIVED
4 FROM THIRD-PARTY CONTROLLERS.

5 C. IF A CONSUMER OBJECTS TO PROCESSING FOR ANY PURPOSE OTHER THAN
6 TARGETED ADVERTISING, THE CONTROLLER MAY CONTINUE PROCESSING THE PERSONAL
7 DATA SUBJECT TO THE OBJECTION IF THE CONTROLLER CAN DEMONSTRATE A
8 LEGITIMATE GROUND TO PROCESS THAT PERSONAL DATA THAT OVERRIDES THE
9 POTENTIAL RISKS TO THE RIGHTS OF THE CONSUMER ASSOCIATED WITH THE
10 PROCESSING OR IF ANOTHER EXEMPTION IN THIS ARTICLE APPLIES.

11 18-577. Controller's responsibilities; exceptions

12 A. A CONTROLLER SHALL COMMUNICATE ANY CORRECTION, DELETION OR
13 RESTRICTION OF PROCESSING CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE TO
14 EACH THIRD-PARTY RECIPIENT TO WHOM THE CONTROLLER KNOWS THE PERSONAL DATA
15 HAS BEEN DISCLOSED, INCLUDING THIRD PARTIES THAT RECEIVED THE DATA THROUGH
16 A SALE, WITHIN ONE YEAR PRECEDING THE VERIFIED REQUEST UNLESS THIS PROVES
17 FUNCTIONALLY IMPRACTICAL OR TECHNICALLY INFEASIBLE OR INVOLVES
18 DISPROPORTIONATE EFFORT OR THE CONTROLLER KNOWS OR IS INFORMED BY THE
19 THIRD PARTY THAT THE THIRD PARTY IS NOT CONTINUING TO USE THE PERSONAL
20 DATA.

21 B. A CONTROLLER SHALL PROVIDE INFORMATION ON ACTION TAKEN ON A
22 VERIFIED REQUEST UNDER THIS SECTION WITHOUT UNDUE DELAY AND WITHIN THIRTY
23 DAYS AFTER RECEIPT OF THE REQUEST. THE TIME PERIOD MAY BE EXTENDED BY
24 SIXTY ADDITIONAL DAYS IF REASONABLY NECESSARY, TAKING INTO ACCOUNT THE
25 COMPLEXITY AND NUMBER OF THE REQUESTS. THE CONTROLLER SHALL INFORM THE
26 CONSUMER OF ANY SUCH EXTENSION WITHIN THIRTY CALENDAR DAYS AFTER RECEIPT
27 OF THE VERIFIED REQUEST, TOGETHER WITH THE REASONS FOR THE DELAY. IF THE
28 CONSUMER MAKES THE VERIFIED REQUEST BY ELECTRONIC MEANS, THE INFORMATION
29 MUST BE PROVIDED BY ELECTRONIC MEANS IF POSSIBLE, UNLESS OTHERWISE
30 REQUESTED BY THE CONSUMER.

31 C. IF A CONTROLLER DOES NOT TAKE ACTION ON THE REQUEST OF A
32 CONSUMER, THE CONTROLLER SHALL INFORM THE CONSUMER WITHOUT UNDUE DELAY AND
33 AT THE LATEST WITHIN THIRTY DAYS AFTER RECEIPT OF THE REQUEST OF THE
34 REASONS FOR NOT TAKING ACTION AND ANY POSSIBILITY FOR INTERNAL REVIEW OF
35 THE DECISION BY THE CONTROLLER.

36 D. THE CONTROLLER SHALL PROVIDE INFORMATION UNDER THIS SECTION FREE
37 OF CHARGE TO THE CONSUMER. IF REQUESTS FROM A CONSUMER ARE MANIFESTLY
38 UNFOUNDED OR EXCESSIVE, IN PARTICULAR BECAUSE OF THEIR REPETITIVE
39 CHARACTER, THE CONTROLLER MAY EITHER:

40 1. CHARGE A REASONABLE FEE TAKING INTO ACCOUNT THE ADMINISTRATIVE
41 COSTS OF PROVIDING THE INFORMATION OR COMMUNICATION OR TAKING THE ACTION
42 REQUESTED.

1 18-579. State preemption

2 THE REGULATION OF DATA SECURITY IS OF STATEWIDE CONCERN. THE
3 REGULATION OF DATA SECURITY PURSUANT TO THIS ARTICLE SUPERSEDES ANY LOCAL
4 LAW OR REGULATION AND IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY,
5 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

6 18-580. Exceptions

7 A. THE OBLIGATIONS IMPOSED ON CONTROLLERS OR PROCESSORS UNDER THIS
8 ARTICLE DO NOT RESTRICT A CONTROLLER'S OR PROCESSOR'S ABILITY TO DO ANY OF
9 THE FOLLOWING:

10 1. COMPLY WITH FEDERAL, STATE OR LOCAL LAWS AND REGULATIONS.

11 2. COMPLY WITH A CIVIL, CRIMINAL OR REGULATORY INQUIRY,
12 INVESTIGATION, SUBPOENA OR SUMMONS BY A FEDERAL, STATE, LOCAL OR OTHER
13 GOVERNMENTAL AUTHORITY.

14 3. COOPERATE WITH LAW ENFORCEMENT AGENCIES CONCERNING CONDUCT OR
15 ACTIVITY THAT THE CONTROLLER OR PROCESSOR REASONABLY AND IN GOOD FAITH
16 BELIEVES MAY VIOLATE A FEDERAL, STATE OR LOCAL LAW OR REGULATION.

17 4. INVESTIGATE, EXERCISE OR DEFEND LEGAL CLAIMS.

18 5. PREVENT OR DETECT IDENTITY THEFT, FRAUD OR OTHER CRIMINAL
19 ACTIVITY OR VERIFY IDENTITIES.

20 B. THE OBLIGATIONS IMPOSED ON CONTROLLERS AND PROCESSORS UNDER THIS
21 ARTICLE DO NOT APPLY IF COMPLIANCE BY THE CONTROLLER OR PROCESSOR WITH
22 THIS ARTICLE WOULD VIOLATE AN EVIDENTIARY PRIVILEGE UNDER THE LAWS OF THIS
23 STATE AND DO NOT PREVENT THE CONTROLLER OR PROCESSOR FROM PROVIDING
24 PERSONAL DATA CONCERNING A CONSUMER TO A PERSON COVERED BY AN EVIDENTIARY
25 PRIVILEGE UNDER THE LAWS OF THIS STATE AS PART OF A PRIVILEGED
26 COMMUNICATION.

27 C. A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL DATA TO A
28 THIRD-PARTY CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THE REQUIREMENTS OF
29 THIS ARTICLE IS NOT IN VIOLATION OF THIS ARTICLE IF THE THIRD-PARTY
30 RECIPIENT PROCESSES THE PERSONAL DATA IN VIOLATION OF THIS ARTICLE, IF AT
31 THE TIME OF DISCLOSING THE PERSONAL DATA THE DISCLOSING CONTROLLER OR
32 PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE THIRD-PARTY RECIPIENT
33 INTENDED TO COMMIT A VIOLATION. A THIRD-PARTY RECIPIENT THAT RECEIVES
34 PERSONAL DATA FROM A CONTROLLER OR PROCESSOR IS LIKEWISE NOT LIABLE UNDER
35 THIS ARTICLE FOR THE OBLIGATIONS OF A CONTROLLER OR PROCESSOR TO WHICH IT
36 PROVIDES SERVICES.

37 D. THIS ARTICLE DOES NOT REQUIRE A CONTROLLER OR PROCESSOR TO DO
38 ANY OF THE FOLLOWING:

39 1. REIDENTIFY DEIDENTIFIED DATA.

40 2. RETAIN PERSONAL DATA CONCERNING A CONSUMER THAT THE CONTROLLER
41 OR PROCESSOR WOULD NOT OTHERWISE RETAIN IN THE ORDINARY COURSE OF
42 BUSINESS.

1 3. COMPLY WITH A REQUEST TO EXERCISE ANY OF THE RIGHTS OF THIS
2 ARTICLE IF THE CONTROLLER OR PROCESSOR IS UNABLE TO VERIFY, USING
3 COMMERCIALY REASONABLE EFFORTS, THE IDENTITY OF THE CONSUMER MAKING THE
4 REQUEST.
5 4. RETAIN PERSONAL DATA BEYOND EXISTING LEGAL OBLIGATIONS, RULES OR
6 LAWS.
7 E. OBLIGATIONS IMPOSED ON CONTROLLERS AND PROCESSORS UNDER THIS
8 ARTICLE DO NOT:
9 1. ADVERSELY AFFECT THE RIGHTS OF ANY PERSONS.
10 2. APPLY TO PROCESSING PERSONAL DATA BY A NATURAL PERSON IN THE
11 COURSE OF A PURELY PERSONAL OR HOUSEHOLD ACTIVITY.
12 18-581. Liability
13 A. THIS ARTICLE DOES NOT SERVE AS THE BASIS FOR A PRIVATE RIGHT OF
14 ACTION UNDER THIS ARTICLE OR ANY OTHER LAW.
15 B. IF MORE THAN ONE CONTROLLER OR PROCESSOR, OR BOTH A CONTROLLER
16 AND A PROCESSOR, INVOLVED IN THE SAME PROCESSING ARE IN VIOLATION OF THIS
17 ARTICLE, THE LIABILITY SHALL BE ALLOCATED AMONG THE PARTIES ACCORDING TO
18 PRINCIPLES OF COMPARATIVE FAULT, UNLESS SUCH LIABILITY IS OTHERWISE
19 ALLOCATED BY CONTRACT AMONG THE PARTIES.
20 18-582. Applicability
21 A. THIS ARTICLE APPLIES TO A LEGAL ENTITY WITH AN ANNUAL GROSS
22 REVENUE OF AT LEAST \$25,000,000 THAT CONDUCTS BUSINESS IN THIS STATE OR
23 PRODUCES PRODUCTS OR SERVICES THAT ARE INTENTIONALLY TARGETED TO RESIDENTS
24 OF THIS STATE AND THAT SATISFIES EITHER OF THE FOLLOWING THRESHOLDS:
25 1. CONTROLS OR PROCESSES DATA OF AT LEAST ONE HUNDRED THOUSAND
26 CONSUMERS.
27 2. DERIVES OVER THIRTY-FIVE PERCENT OF GROSS REVENUE FROM THE SALE
28 OF PERSONAL INFORMATION AND PROCESSES OR CONTROLS PERSONAL INFORMATION OF
29 AT LEAST TWENTY-FIVE THOUSAND CONSUMERS.
30 B. THIS ARTICLE DOES NOT APPLY TO:
31 1. STATE AND LOCAL GOVERNMENTS.
32 2. PERSONAL DATA SETS TO THE EXTENT THAT THE DATA SETS ARE
33 REGULATED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
34 1996 (P.L. 104-191), THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND
35 CLINICAL HEALTH ACT (P.L. 111-5) OR THE GRAMM-LEACH-BLILEY ACT OF 1999
36 (P.L. 106-102).
37 3. DATA SETS THAT ARE MAINTAINED FOR EMPLOYMENT RECORDS PURPOSES.
38 4. BUSINESSES AND ACTIVITIES THAT ARE COVERED BY THE FAIR CREDIT
39 REPORTING ACT (P.L. 90-321).