

108TH CONGRESS
1ST SESSION

S. 1458

To amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 21), 2003

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Institution
5 Privacy Protection Act of 2003”.

6 **SEC. 2. PROTECTION OF PRIVATE HEALTH INFORMATION.**

7 Section 509(4) of the Gramm-Leach-Bliley Act (15
8 U.S.C. 6809(4)) is amended by adding at the end the fol-
9 lowing:

1 “(D) The term ‘nonpublic personal infor-
2 mation’ includes health information, defined as
3 any information, including genetic information,
4 demographic information, and tissue samples
5 collected from an individual, whether oral or re-
6 corded in any form or medium—

7 “(i) that is created or received by a
8 health care provider, health researcher,
9 health plan, health oversight agency, public
10 health authority, employer, health or life
11 insurer, school, or university; and

12 “(ii) that —

13 “(I) relates to the past, present,
14 or future physical or mental health or
15 condition of an individual (including
16 individual cells and their components),
17 the provision of health care to an indi-
18 vidual, or the past, present, or future
19 payment for the provision of health
20 care to an individual; and

21 “(II) that identifies an indi-
22 vidual, or with respect to which there
23 is a reasonable basis to believe that
24 the information can be used to iden-
25 tify an individual.”.

1 **SEC. 3. OPT-IN FOR SHARING OF INFORMATION.**

2 Section 502 of the Gramm-Leach-Bliley Act (15
3 U.S.C. 6802) is amended—

4 (1) in subsection (a)—

5 (A) by inserting “any affiliate or” before
6 “a nonaffiliated”;

7 (B) by striking “unless such financial in-
8 stitution provides” and inserting the following:

9 “unless—

10 “(1) the institution provides”; and

11 (C) by striking the period at the end and
12 inserting the following: “; and

13 “(2) the consumer to whom the information
14 pertains—

15 “(A) has affirmatively consented (in writ-
16 ing, in the case of health information, as de-
17 fined in section 509(4)(D)), in accordance with
18 rules prescribed under section 504, to the dis-
19 closure of such information; and

20 “(B) has not withdrawn such consent.”;

21 and

22 (2) by striking subsection (b) and inserting the
23 following:

24 “(b) DENIAL OF SERVICE PROHIBITED.—A financial
25 institution may not deny a financial product or a financial

1 service to any consumer based on the refusal by the con-
2 sumer to grant the consent required by this section.”.

3 **SEC. 4. COMPLIANCE OFFICERS.**

4 Section 503 of the Gramm-Leach-Bliley Act (15
5 U.S.C. 6803) is amended by adding at the end the fol-
6 lowing:

7 “(c) COMPLIANCE OFFICERS.—Each financial insti-
8 tution shall designate a privacy compliance officer, who
9 shall be responsible for ensuring compliance by the institu-
10 tion with the requirements of this title and the privacy
11 policies of the institution.”.

12 **SEC. 5. LIABILITY.**

13 Section 505 of the Gramm-Leach-Bliley Act (15
14 U.S.C. 6805) is amended by adding at the end the fol-
15 lowing:

16 “(e) CIVIL PENALTIES.—The Attorney General of
17 the United States may bring a civil action in the appro-
18 priate district court of the United States against any fi-
19 nancial institution that engages in conduct constituting a
20 violation of this title, and, upon proof of such violation—

21 “(1) the financial institution shall be subject to
22 a civil penalty of not more than \$100,000 for each
23 such violation; and

24 “(2) the officers and directors of the financial
25 institution shall be subject to, and shall be person-

1 ally liable for, a civil penalty of not more than
2 \$10,000 for each such violation.”.

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