

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 1551**

1 On page 1 of the printed bill, delete lines 6 through 21 and delete pages  
2 2 through 11 and insert:

3 **“SECTION 1.** ORS 646A.602 is amended to read:

4 “646A.602. As used in ORS 646A.600 to 646A.628:

5 “(1)(a) ‘Breach of security’ means an unauthorized acquisition of comput-  
6 erized data that materially compromises the security, confidentiality or in-  
7 tegrity of personal information that a person maintains.

8 “(b) ‘Breach of security’ does not include an inadvertent acquisition of  
9 personal information by a person or the person’s employee or agent if the  
10 personal information is not used in violation of applicable law or in a man-  
11 ner that harms or poses an actual threat to the security, confidentiality or  
12 integrity of the personal information.

13 “(2) ‘Consumer’ means an individual resident of this state.

14 “(3) ‘Consumer report’ means a consumer report as described in section  
15 603(d) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)), as that  
16 Act existed on [January 1, 2016] **the effective date of this 2018 Act**, that  
17 a consumer reporting agency compiles and maintains.

18 “(4) ‘Consumer reporting agency’ means a consumer reporting agency as  
19 described in section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C.  
20 1681a(p)) as that Act existed on [January 1, 2016] **the effective date of this**  
21 **2018 Act.**

1 “(5) ‘Debt’ means any obligation or alleged obligation arising out of a  
2 consumer transaction.

3 “(6) ‘Encryption’ means an algorithmic process that renders data unread-  
4 able or unusable without the use of a confidential process or key.

5 “(7) ‘Extension of credit’ means a right to defer paying debt or a right to  
6 incur debt and defer paying the debt, that is offered or granted primarily for  
7 personal, family or household purposes.

8 “(8) ‘Identity theft’ has the meaning set forth in ORS 165.800.

9 “(9) ‘Identity theft declaration’ means a completed and signed statement  
10 that documents alleged identity theft, using [*the*] a form available from the  
11 Federal Trade Commission, or another substantially similar form.

12 “(10) ‘Person’ means an individual, private or public corporation, part-  
13 nership, cooperative, association, estate, limited liability company, organiza-  
14 tion or other entity, whether or not organized to operate at a profit, or a  
15 public body as defined in ORS 174.109.

16 “(11)(a) ‘Personal information’ means:

17 “[*a*] (A) A consumer’s first name or first initial and last name in com-  
18 bination with any one or more of the following data elements, if encryption,  
19 redaction or other methods have not rendered the data elements unusable  
20 or if the data elements are encrypted and the encryption key has been ac-  
21 quired:

22 “[*A*] (i) A consumer’s Social Security number;

23 “[*B*] (ii) A consumer’s driver license number or state identification card  
24 number issued by the Department of Transportation;

25 “[*C*] (iii) A consumer’s passport number or other identification number  
26 issued by the United States;

27 “[*D*] (iv) A consumer’s financial account number, credit card number  
28 or debit card number, in combination with any required security code, access  
29 code or password that would permit access to a consumer’s financial  
30 account, **or any other information or combination of information that**

1 **a person reasonably knows or should know would permit access to the**  
2 **consumer's financial account;**

3 “[*E*] (v) Data from automatic measurements of a consumer's physical  
4 characteristics, such as an image of a fingerprint, retina or iris, that are  
5 used to authenticate the consumer's identity in the course of a financial  
6 transaction or other transaction;

7 “[*F*] (vi) A consumer's health insurance policy number or health insur-  
8 ance subscriber identification number in combination with any other unique  
9 identifier that a health insurer uses to identify the consumer; [*or*] **and**

10 “[*G*] (vii) Any information about a consumer's medical history or mental  
11 or physical condition or about a health care professional's medical diagnosis  
12 or treatment of the consumer.

13 “[*b*] (B) Any of the data elements or any combination of the data ele-  
14 ments described in [*paragraph (a) of this subsection*] **subparagraph (A) of**  
15 **this paragraph** without the consumer's first name or first initial and last  
16 name if:

17 “[*A*] (i) Encryption, redaction or other methods have not rendered the  
18 data element or combination of data elements unusable; and

19 “[*B*] (ii) The data element or combination of data elements would enable  
20 a person to commit identity theft against a consumer.

21 “[*c*] (b) ‘Personal information’ does not include information in a federal,  
22 state or local government record, other than a Social Security number, that  
23 is lawfully made available to the public.

24 “(12) ‘Proper identification’ means written information or documentation  
25 that a consumer or representative can present to another person as evidence  
26 of the consumer's or representative's identity, examples of which include:

27 “(a) A valid Social Security number or a copy of a valid Social Security  
28 card;

29 “(b) A certified or otherwise official copy of a birth certificate that a  
30 governmental body issued; and

1 “(c) A copy of a driver license or other government-issued identification.

2 “(13) ‘Protected consumer’ means an individual who is:

3 “(a) Not older than 16 years old at the time a representative requests a  
4 security freeze on the individual’s behalf; or

5 “(b) Incapacitated or for whom a court or other authority has appointed  
6 a guardian or conservator.

7 “(14) ‘Protective record’ means information that a consumer reporting  
8 agency compiles to identify a protected consumer for whom the consumer  
9 reporting agency has not prepared a consumer report.

10 “(15) ‘Redacted’ means altered or truncated so that no more than the last  
11 four digits of a Social Security number, driver license number, state iden-  
12 tification card number, passport number or other number issued by the  
13 United States, financial account number, credit card number or debit card  
14 number is visible or accessible.

15 “(16) ‘Representative’ means a consumer who provides a consumer re-  
16 porting agency with sufficient proof of the consumer’s authority to act on a  
17 protected consumer’s behalf.

18 “(17) ‘Security freeze’ means a notice placed in a consumer report at a  
19 consumer’s request or a representative’s request or in a protective record at  
20 a representative’s request that, subject to certain exemptions, prohibits a  
21 consumer reporting agency from releasing information in the consumer re-  
22 port or the protective record for an extension of credit, unless the consumer  
23 temporarily lifts the security freeze on the consumer’s consumer report or a  
24 protected consumer or representative removes the security freeze on or de-  
25 letes the protective record.

26 “**SECTION 2.** ORS 646A.604 is amended to read:

27 “646A.604. (1) **If** a person [*that*] owns, [*or*] licenses, **has control over or**  
28 **has access to** personal information that the person uses in the course of the  
29 person’s business, vocation, occupation or volunteer activities and [*that*] **the**  
30 **person** was subject to a breach of security, **the person** shall give notice of

1 the breach of security to:

2 “(a) The consumer to whom the personal information pertains [*after the*  
3 *person discovers the breach of security or after the person receives notice of a*  
4 *breach of security under subsection (2) of this section. The person shall notify*  
5 *the consumer in the most expeditious manner possible, without unreasonable*  
6 *delay, consistent with the legitimate needs of law enforcement described in*  
7 *subsection (3) of this section and consistent with any measures that are nec-*  
8 *essary to determine sufficient contact information for the affected consumer,*  
9 *determine the scope of the breach of security and restore the reasonable integ-*  
10 *riety, security and confidentiality of the personal information*].

11 “(b) The Attorney General, either in writing or electronically, if the  
12 number of consumers to whom the person must send the notice described in  
13 paragraph (a) of this subsection exceeds 250. [*The person shall disclose the*  
14 *breach of security to the Attorney General in the manner described in para-*  
15 *graph (a) of this subsection.*]

16 “(2) A person that maintains or otherwise possesses personal information  
17 on behalf of, or under license of, another person shall notify the other person  
18 after discovering a breach of security.

19 “(3)(a) **Except as provided in paragraph (b) of this subsection, a**  
20 **person that must give notice of a breach of security under subsection**  
21 **(1) or (2) of this section shall give the notice in the most expeditious**  
22 **manner possible, without unreasonable delay, but not later than 45**  
23 **days after discovering or receiving notification of the breach of secu-**  
24 **rity. In providing the notice, the person shall undertake measures that**  
25 **are necessary to:**

26 “(A) **Determine sufficient contact information for the intended re-**  
27 **ipient of the notice;**

28 “(B) **Determine the scope of the breach of security; and**

29 “(C) **Restore the reasonable integrity, security and confidentiality**  
30 **of the personal information.**

1       “(b) A person that [*owns or licenses personal information*] **must give**  
2 **notice of a breach of security under subsection (1) or (2) of this section**  
3 may delay [*notifying a consumer of a breach of security*] **giving the notice**  
4 only if a law enforcement agency determines that a notification will impede  
5 a criminal investigation and if the law enforcement agency requests in  
6 writing that the person delay the notification.

7       “(4) For purposes of this section, a person that owns or licenses personal  
8 information, **or possesses or has access to personal information as a**  
9 **result of a transaction with a consumer**, may notify [*a*] **the** consumer of  
10 a breach of security:

11       “(a) In writing;

12       “(b) Electronically, if the person customarily communicates with the  
13 consumer electronically or if the notice is consistent with the provisions  
14 regarding electronic records and signatures set forth in the Electronic Sig-  
15 natures in Global and National Commerce Act (15 U.S.C. 7001) as that Act  
16 existed on [*January 1, 2016*] **the effective date of this 2018 Act**;

17       “(c) By telephone, if the person contacts the affected consumer directly;  
18 or

19       “(d) With substitute notice, if the person demonstrates that the cost of  
20 notification otherwise would exceed \$250,000 or that the affected class of  
21 consumers exceeds 350,000, or if the person does not have sufficient contact  
22 information to notify affected consumers. For the purposes of this paragraph,  
23 ‘substitute notice’ means:

24       “(A) Posting the notice or a link to the notice conspicuously on the  
25 person’s website if the person maintains a website; and

26       “(B) Notifying major statewide television and newspaper media.

27       “(5) Notice under this section must include, at a minimum:

28       “(a) A description of the breach of security in general terms;

29       “(b) The approximate date of the breach of security;

30       “(c) The type of personal information that was subject to the breach of

1 security;

2 “(d) Contact information for the person that owned or licensed, **or pos-**  
3 **sessed or had access to as a result of a transaction with a consumer,**  
4 the personal information [*that*] **and** was subject to the breach of security;

5 “(e) Contact information for national consumer reporting agencies; and

6 “(f) Advice to the consumer to report suspected identity theft to law  
7 enforcement, including the Attorney General and the Federal Trade Com-  
8 mission.

9 “(6) If a person discovers a breach of security that affects more than 1,000  
10 consumers, the person shall notify, without unreasonable delay, all consumer  
11 reporting agencies that compile and maintain reports on consumers on a  
12 nationwide basis of the timing, distribution and content of the notice the  
13 person gave to affected consumers and shall include in the notice any police  
14 report number assigned to the breach of security. A person may not delay  
15 notifying affected consumers of a breach of security in order to notify con-  
16 sumer reporting agencies.

17 “(7)(a) **If a person must notify a consumer of a breach of security**  
18 **under this section, and in connection with the notification the person**  
19 **offers to provide credit monitoring services or identity theft pre-**  
20 **vention and mitigation services without charge to the consumer, the**  
21 **person may not condition the person’s provision of the services on the**  
22 **consumer’s providing the person with a credit or debit card number**  
23 **or on the consumer’s acceptance of any other service the person offers**  
24 **to provide for a fee.**

25 “(b) **If a person offers additional credit monitoring services or**  
26 **identity theft prevention and mitigation services for a fee to a con-**  
27 **sumer under the circumstances described in paragraph (a) of this**  
28 **subsection, the person must separately, distinctly, clearly and con-**  
29 **spicuously disclose in the offer for the additional credit monitoring**  
30 **services or identity theft prevention and mitigation services that the**

1 **person will charge the consumer a fee.**

2 **“(c) The terms and conditions of any contract under which one**  
3 **person offers or provides credit monitoring services or identity theft**  
4 **prevention and mitigation services on behalf of another person under**  
5 **the circumstances described in paragraph (a) of this subsection must**  
6 **require compliance with the requirements of paragraphs (a) and (b)**  
7 **of this subsection.**

8 “[7] **(8)** Notwithstanding subsection (1) of this section, a person does not  
9 need to notify consumers of a breach of security if, after an appropriate in-  
10 vestigation or after consultation with relevant federal, state or local law  
11 enforcement agencies, the person reasonably determines that the consumers  
12 whose personal information was subject to the breach of security are un-  
13 likely to suffer harm. The person must document the determination in writ-  
14 ing and maintain the documentation for at least five years.

15 “[8] **(9)** This section does not apply to:

16 **“(a)** A person that complies with notification requirements or procedures  
17 for a breach of security that the person’s primary or functional federal reg-  
18 ulator adopts, promulgates or issues in rules, regulations, procedures,  
19 guidelines or guidance, if the rules, regulations, procedures, guidelines or  
20 guidance provides greater protection to personal information and disclosure  
21 requirements at least as thorough as the protections and disclosure require-  
22 ments provided under this section.

23 **“(b)** A person that complies with a state or federal law that provides  
24 greater protection to personal information and disclosure requirements at  
25 least as thorough as the protections and disclosure requirements provided  
26 under this section.

27 **“(c)** A person that is subject to and complies with regulations  
28 promulgated pursuant to Title V of the Gramm-Leach-Bliley Act of 1999 (15  
29 U.S.C. 6801 to 6809) as that Act existed on [January 1, 2016] **the effective**  
30 **date of this 2018 Act.**



1 “(d)(A) Except as provided in subparagraph (B) of this paragraph, a covered  
2 entity, as defined in 45 C.F.R. 160.103, as in effect on [*January 1, 2016*]  
3 **the effective date of this 2018 Act**, that is governed under 45 C.F.R. parts  
4 160 and 164, as in effect on [*January 1, 2016*] **the effective date of this 2018**  
5 **Act**, if the covered entity sends the Attorney General a copy of the notice  
6 the covered entity sent to consumers under this section or a copy of the  
7 notice that the covered entity sent to the primary functional regulator des-  
8 ignated for the covered entity under the Health Insurance Portability and  
9 Availability Act of 1996, (P.L. 104-191, 110 Stat. 1936, 42 U.S.C. 300(gg), 29  
10 U.S.C. 118 et seq., 42 U.S.C. 1320(d) et seq., 45 C.F.R. parts 160 and 164).

11 “(B) A covered entity is subject to the provisions of this section if the  
12 covered entity does not send a copy of a notice described in subparagraph  
13 (A) of this paragraph to the Attorney General within a reasonable time after  
14 the Attorney General requests the copy.

15 “**(10) Notwithstanding the exemptions set forth in subsection (9) of**  
16 **this section, a person that owns or licenses personal information shall**  
17 **provide to the Attorney General within a reasonable time at least one**  
18 **copy of any notice the person sends to consumers or to the person’s**  
19 **primary or functional regulator in compliance with this section or**  
20 **with other state or federal laws or regulations that apply to the person**  
21 **as a consequence of a breach of security.**

22 “[*(9)(a)*] **(11)(a)** A person’s violation of a provision of ORS 646A.600 to  
23 646A.628 is an unlawful practice under ORS 646.607.

24 “(b) The rights and remedies available under this section are cumulative  
25 and are in addition to any other rights or remedies that are available under  
26 law.

27 “**SECTION 3.** ORS 646A.606 is amended to read:

28 “646A.606. (1) A consumer may elect to place a security freeze on the  
29 consumer’s consumer report or, if the consumer is a representative, on a  
30 protected consumer’s consumer report or protective record by sending a

1 written request to a consumer reporting agency at an address the agency  
2 designates to receive such requests, or a secure electronic request at a  
3 website the agency designates to receive such requests if the consumer re-  
4 porting agency, at the agency’s discretion, makes a secure electronic method  
5 available.

6 “(2) If the consumer or protected consumer is the victim of identity theft  
7 or has reported a theft of personal information to a law enforcement agency,  
8 the consumer or representative may include a copy of the police report, in-  
9 cident report or identity theft declaration.

10 “(3)(a) The consumer or representative must provide proper identification  
11 [*and any fee authorized by ORS 646A.610*].

12 “(b)(A) In addition to the information [*and fee*] described in paragraph (a)  
13 of this subsection, a representative who seeks to place a security freeze on  
14 a protected consumer’s consumer report or protective record shall provide  
15 sufficient proof of the representative’s authority to act on the protected  
16 consumer’s behalf.

17 “(B) For purposes of subparagraph (A) of this paragraph, sufficient proof  
18 of authority consists of:

19 “(i) A court order that identifies or describes the relationship between the  
20 representative and the protected consumer;

21 “(ii) A valid and lawfully executed power of attorney that permits the  
22 representative to act on the protected consumer’s behalf; or

23 “(iii) A written affidavit that the representative signs and has notarized  
24 in which the representative expressly describes the relationship between the  
25 representative and the protected consumer and the representative’s authority  
26 to act on the protected consumer’s behalf.

27 “(4)(a) Except as provided in ORS 646A.614, if a security freeze is in place  
28 for a consumer report, information from the consumer report may not be  
29 released without prior express authorization from the consumer.

30 “(b) Information from a protective record may not be released until the

1 protected consumer for whom the consumer reporting agency created the  
2 protective record, or a representative of the protected consumer, removes the  
3 security freeze.

4 “(5) This section does not prevent a consumer reporting agency from ad-  
5 vising a third party that a security freeze is in effect with respect to the  
6 consumer report or protective record.

7 **“SECTION 4.** ORS 646A.608 is amended to read:

8 “646A.608. (1)(a) A consumer reporting agency shall place a security  
9 freeze on a consumer report not later than five business days after receiving  
10 from a consumer:

11 “(A) The request described in ORS 646A.606 (1); **and**

12 “(B) Proper identification.[: *and*]

13 “[*(C) A fee, if applicable.*]

14 “(b) If a consumer report does not exist for a protected consumer on be-  
15 half of whom a representative seeks to place a security freeze, a consumer  
16 reporting agency shall create a protective record after receiving from the  
17 representative the request described in ORS 646A.606 (1), proper identifica-  
18 tion for both the representative and the protected consumer and sufficient  
19 proof of authority, as described in ORS 646A.606 (3)(b). After creating a  
20 protective record for a protected consumer under this paragraph, the con-  
21 sumer reporting agency shall place the security freeze that the representative  
22 requested on the protected consumer’s protective record.

23 “(c) The protective record that the consumer reporting agency creates  
24 under paragraph (b) of this subsection does not need to contain any infor-  
25 mation other than the protected consumer’s personal information, if other  
26 information for the protected consumer is not available. Except as provided  
27 in ORS 646A.614, a consumer reporting agency may not use or release to  
28 another person the information in a protective record for the purpose of as-  
29 sessing a protected consumer’s eligibility or capacity for an extension of  
30 credit, as a basis for evaluating a protected consumer’s character, reputation

1 or personal characteristics or for other purposes that are not related to  
2 protecting the protected consumer from identity theft.

3 “(2)(a) [*The*] A consumer reporting agency shall send a written confirma-  
4 tion of a security freeze on a consumer’s consumer report to the consumer  
5 at the last known address for the consumer shown in the consumer report  
6 that the consumer reporting agency maintains, within 10 business days after  
7 placing the security freeze and, with the confirmation, shall provide the  
8 consumer with a unique personal identification number or password or sim-  
9 ilar device the consumer must use to authorize the consumer reporting  
10 agency to release the consumer’s consumer report for a specific period of  
11 time or to permanently remove the security freeze. The consumer reporting  
12 agency shall include with the written confirmation information that de-  
13 scribes how to remove a security freeze and how to temporarily lift a secu-  
14 rity freeze on a consumer report, other than a consumer report for a  
15 protected consumer, in order to allow access to information from the  
16 consumer’s consumer report for a period of time while the security freeze is  
17 in place.

18 “(b) This subsection does not require a consumer reporting agency to  
19 provide a consumer or representative with a personal identification number  
20 or password for the consumer or representative to use to authorize the con-  
21 sumer reporting agency to release information from a protective record.

22 “(3)(a) If a consumer wishes to allow the consumer’s consumer report to  
23 be accessed for a specific period of time while a security freeze is in effect,  
24 the consumer shall contact the consumer reporting agency using a point of  
25 contact the consumer reporting agency designates, request that the security  
26 freeze be temporarily lifted and provide the following:

27 “(A) Proper identification;

28 “(B) The unique personal identification number or password or similar  
29 device the consumer reporting agency provided under subsection (2) of this  
30 section; **and**

1 “(C) An indication of the period of time during which the consumer report  
2 must be available to users of the consumer report[; *and*].

3 “[*(D) A fee, if applicable.*]

4 “(b) A protective record is not subject to a temporary lift of a security  
5 freeze.

6 “(c) Except as provided in ORS 646A.612 (2)(a), a consumer report for a  
7 protected consumer is not subject to a temporary lift of a security freeze.

8 “(4) A consumer reporting agency that receives a request from [*the*] **a**  
9 consumer to temporarily lift a security freeze on a consumer report, other  
10 than a consumer report for a protected consumer, under subsection (3) of this  
11 section shall comply with the request not later than three business days after  
12 receiving from the consumer:

13 “(a) Proper identification;

14 “(b) The unique personal identification number or password or similar  
15 device the consumer reporting agency provided under subsection (2) of this  
16 section; **and**

17 “(c) An indication of the period of time during which the consumer report  
18 must be available to users of the consumer report[; *and*].

19 “[*(d) A fee, if applicable.*]

20 “(5)(a) A security freeze for a consumer report must remain in place until  
21 the consumer requests, using a point of contact the consumer reporting  
22 agency designates, that the security freeze be removed. A consumer reporting  
23 agency shall remove a security freeze within three business days after re-  
24 ceiving a request for removal from the consumer, who provides:

25 “(A) Proper identification; **and**

26 “(B) The unique personal identification number or password or similar  
27 device the consumer reporting agency provided under subsection (2) of this  
28 section.[; *and*]

29 “[*(C) A fee, if applicable.*]

30 “(b) A security freeze for a protective record must remain in place until

1 the protected consumer or a representative requests, using a point of contact  
2 the consumer reporting agency designates, that the security freeze be re-  
3 moved or that the protective record be deleted. The consumer reporting  
4 agency does not have an affirmative duty to notify the protected consumer  
5 or the representative that a security freeze is in place or to remove the se-  
6 curity freeze or delete the protective record once the protected consumer is  
7 no longer a protected consumer. A protected consumer or a representative  
8 has the affirmative duty to request that the consumer reporting agency re-  
9 move the security freeze or delete the protective record. A consumer report-  
10 ing agency shall remove a security freeze or delete a protective record within  
11 30 business days after receiving a request for removal or deletion from the  
12 protected consumer or a representative, who provides:

13 “(A) Proper identification;

14 “(B) Sufficient proof of authority, as described in ORS 646A.606 (3)(b), if  
15 the representative seeks to remove the security freeze or delete the protec-  
16 tive record; **and**

17 “(C) Proof that the representative’s authority to act on the protected  
18 consumer’s behalf is no longer valid or applicable, if the protected consumer  
19 seeks to remove the security freeze or delete the protective record.[; and]

20 “[D) A fee, if applicable.]

21 **“SECTION 5.** ORS 646A.610 is amended to read:

22 “646A.610. *[(1) A consumer reporting agency may not charge a fee to a*  
23 *consumer or a protected consumer who is the victim of identity theft or to a*  
24 *consumer who has reported or a protected consumer for whom a representative*  
25 *has reported to a law enforcement agency the theft of personal information,*  
26 *provided the consumer or the representative has submitted to the consumer*  
27 *reporting agency a copy of a valid police report, incident report or identity theft*  
28 *declaration.]*

29 “[2)(a) *A consumer reporting agency may charge a reasonable fee of not*  
30 *more than \$10 to a consumer, other than a consumer described in subsection*

1 (1) of this section, for each placement of a security freeze, temporary lift of the  
2 security freeze, removal of the security freeze or replacing a lost personal  
3 identification number or password previously provided to the consumer.]

4 “[b)(A) Except as provided in subsection (1) of this section and in sub-  
5 paragraph (B) of this paragraph, a consumer reporting agency may charge a  
6 reasonable fee of not more than \$10 to place or remove a security freeze for a  
7 protected consumer’s consumer report or protective record or to create or delete  
8 a protective record for a protected consumer.]

9 “[B) A consumer reporting agency may not charge a fee to place or remove  
10 a security freeze on an existing consumer report or protective record for a  
11 protected consumer who is under 16 years of age at the time a representative  
12 requests the consumer reporting agency to place or remove the security  
13 freeze.]

14 **“A consumer reporting agency may not charge a consumer a fee  
15 or collect from a consumer any money or item of value for:**

16 **“(1) Placing, temporarily lifting or removing a security freeze on  
17 the consumer’s consumer report.**

18 **“(2) Creating or deleting a protective record.**

19 **“(3) Placing or removing a security freeze on a protective record for  
20 a protected consumer.**

21 **“(4) Replacing a lost personal identification number, password or  
22 similar device the consumer reporting agency previously provided to  
23 the consumer.**

24 **“SECTION 6.** ORS 646A.622 is amended to read:

25 **“646A.622. (1) A person that owns, maintains or otherwise possesses, or  
26 has control over or access to, data that includes [a consumer’s] personal  
27 information that the person uses in the course of the person’s business, vo-  
28 cation, occupation or volunteer activities shall develop, implement and  
29 maintain reasonable safeguards to protect the security, confidentiality and  
30 integrity of the personal information, including safeguards that protect the**

1 personal information when the person disposes of the personal information.

2 “(2) A person complies with subsection (1) of this section if the person:

3 “(a) Complies with a state or federal law that provides greater protection  
4 to personal information than the protections that this section provides.

5 “(b) Complies with regulations promulgated under Title V of the Gramm-  
6 Leach-Bliley Act of 1999 (15 U.S.C. 6801 to 6809) as in effect on [*January 1,*  
7 *2016*] **the effective date of this 2018 Act**, if the person is subject to the  
8 Act.

9 “(c) Complies with regulations that implement the Health Insurance Por-  
10 tability and Accountability Act of 1996 (45 C.F.R. parts 160 and 164) as in  
11 effect on [*January 1, 2016*] **the effective date of this 2018 Act**, if the person  
12 is subject to the Act.

13 “(d) Implements an information security program that includes:

14 “(A) Administrative safeguards such as:

15 “(i) Designating one or more employees to coordinate the security pro-  
16 gram;

17 “(ii) Identifying reasonably foreseeable internal and external risks **with**  
18 **reasonable regularity**;

19 “(iii) Assessing whether existing safeguards adequately control the iden-  
20 tified risks;

21 “(iv) Training and managing employees in security program practices and  
22 procedures **with reasonable regularity**;

23 “(v) Selecting service providers that are capable of maintaining appro-  
24 priate safeguards, and requiring the service providers by contract to main-  
25 tain the safeguards; [*and*]

26 “(vi) Adjusting the security program in light of business changes, **po-**  
27 **tential threats** or new circumstances; **and**

28 “(vii) **Reviewing user access policies with reasonable regularity**;

29 “(B) Technical safeguards such as:

30 “(i) Assessing risks in network and software design;



1       “(ii) *Assessing risks in information processing, transmission and*  
2 *storage;*]

3       “(ii) **Applying security updates and upgrades to software that might**  
4 **be at risk of or vulnerable to a breach of security;**

5       “(iii) **Monitoring**, detecting, preventing and responding to attacks or  
6 system failures; and

7       “(iv) Testing and monitoring regularly the effectiveness of key controls,  
8 systems and procedures; and

9       “(C) Physical safeguards such as:

10       “(i) Assessing, **in light of current technology, known and potential**  
11 **risks of information collection, storage, usage, retention, access and dis-**  
12 **posal and implementing methods to remedy or mitigate identified**  
13 **risks;**

14       “(ii) **Monitoring**, detecting, preventing, **isolating** and responding to in-  
15 trusions **timely and with reasonable regularity;**

16       “(iii) Protecting against unauthorized access to or use of personal infor-  
17 mation during or after collecting, **using, storing**, transporting, **retaining**,  
18 destroying or disposing of the personal information; and

19       “(iv) Disposing of personal information, **whether on or off the person’s**  
20 **premises or property**, after the person no longer needs the personal infor-  
21 mation for business purposes or as required by local, state or federal law by  
22 burning, pulverizing, shredding or modifying a physical record and by de-  
23 stroying or erasing electronic media so that the information cannot be read  
24 or reconstructed.

25       “(3) A person complies with subsection (2)(d)(C)(iv) of this section if the  
26 person contracts with another person engaged in the business of record de-  
27 struction to dispose of personal information in a manner that is consistent  
28 with subsection (2)(d)(C)(iv) of this section.

29       “(4) Notwithstanding subsection (2) of this section, a person that is an  
30 owner of a small business as defined in ORS 285B.123 (2) complies with

1 subsection (1) of this section if the person’s information security and disposal  
2 program contains administrative, technical and physical safeguards and dis-  
3 posal measures that are appropriate for the size and complexity of the small  
4 business, the nature and scope of the small business’s activities, and the  
5 sensitivity of the personal information the small business collects from or  
6 about consumers.

7 **“SECTION 7. The amendments to ORS 646A.602, 646A.604, 646A.606,**  
8 **646A.608, 646A.610 and 646A.622 by sections 1 to 6 of this 2018 Act apply**  
9 **to contracts into which a person enters with another person on or af-**  
10 **ter the effective date of this 2018 Act.**

11 **“SECTION 8. This 2018 Act takes effect on the 91st day after the**  
12 **date on which the 2018 regular session of the Seventy-ninth Legislative**  
13 **Assembly adjourns sine die.”.**

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