

August 25, 2011

The Honorable Edmund G. Brown, Jr.  
Governor of California  
State Capitol, First Floor  
Sacramento, CA 95814

Re: Senate Bill 24 – Security Breach Notification Letters: Standardized Content

Dear Governor Brown:

This letter is to respectfully request your signature on Senate Bill 24 relative to security breach notification letters.

In 2002, California adopted a first-in-the-nation security breach notification statute (A.B. 700, Simitian/S.B. 1386, Peace), that requires data holders to notify individuals when there has been a data breach of personal information. Forty-five states have since followed California's lead and passed their own security breach notification statutes.

That law is built on the premise that individuals have a right to know when a data breach has affected them. Quite simply, before a consumer can protect himself from the unauthorized acquisition and use of confidential information, the consumer must know that a security breach has occurred. Without that knowledge, the consumer isn't even aware of the need to protect himself – never mind thinking about the ways in which he might want to protect himself.

In the ensuing years, however, a gap has been identified in our state statute. While current law requires data holders to notify individuals when there has

been a data breach of personal information, that same law is silent on what information should be contained in the notification. As a result, notification letters vary greatly in the information provided, leaving consumers confused and businesses exposed.

Individuals are left to question what information was breached, when did the breach occur, and what should they do to protect themselves. Moreover, data holders (i.e., private sector businesses and state agencies) are left exposed and uncertain of what is expected of them in the event of a breach. Senate Bill 24 fills in this gap by establishing standard, core content -- such as the type of information breached, time of breach, and toll-free telephone numbers and addresses of the major credit reporting agencies -- for the notification letters, thereby ensuring the notifications actually work.

Privacy Rights Clearinghouse, a non-profit consumer education and advocacy group, reports that at least 500 million sensitive records have been compromised nationwide since 2005. And, a study by the Samuelson Law, Technology & Public Policy Clinic at UC Berkeley found that 28 percent of data breach victims receiving a security breach notification letter "do not understand the potential consequences of the breach after reading the letter."

At least fourteen other states and Puerto Rico now require security breach notification letters to include specified types of information, and that a copy be sent to a state regulator, such as the Attorney General, similar to the requirements of S.B. 24.

As amended in the Assembly, **there is no opposition to the bill**. The bill also received bipartisan votes in both the Senate and Assembly. It is supported by a broad coalition of organizations, including American Civil Liberties Union, Consumer Federation of California, Privacy Rights Clearinghouse, California State Sheriffs' Association, and the California Attorney General.

Senate Bill 24 makes relatively modest but important changes to existing law which will greatly enhance identity theft protection for Californians, and keep California in a national leadership position on this issue.

Governor Brown

August 25, 2011

Page 3

I respectfully request your signature on Senate Bill 24.

Sincerely,

S. Joseph Simitian

State Senator, Eleventh District

cc: Nancy McFadden, Executive Secretary  
Gareth Elliott, Legislative Secretary  
Aaron Maguire, Deputy Legislative Secretary