



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

25 MAR 2009

2009 MAR 25 PM 1:56 - Wm

The Honorable Judith T. Won Pat
Speaker
Mina' Bente Nuebi Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 9(LS), "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION" which I signed into law on March 13, 2009 as **Public Law 30-4**.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

cc: The Honorable Tina Rose Muña Barnes,
Senator and Legislative Secretary

30-09-0353

Office of the Speaker
Judith T. Won Pat, Ed. D.

Date 3/25/09
Time 12:35 PM
Received by

360

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

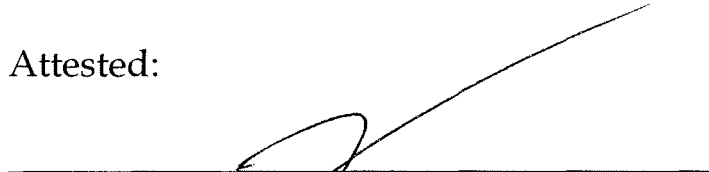
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 9 (LS), "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION," was on the 27th day of February, 2009, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



vicente c. pangelinan
Acting Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 3 day of MAR, 2009, at
4:04 o'clock P.M.



A. RACHULAP
Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 13 MARCH 2009

Public Law No. 30-4

I MINA'TRENTA NA LIHESLATURÁN GUÁHAN
2009 (FIRST) Regular Session

Bill No. 9 (LS)

As substituted by the
Committee on Public Safety,
Law Enforcement and Senior Citizens
and amended on the Floor.

Introduced by:

Ray Tenorio
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
T. C. Ada
Adolpho B. Palacios, Sr.
v. c. pangelinan
M. J. Rector
R. J. Respicio
Telo Taitague
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW CHAPTER 48 TO TITLE 9, GUAM
CODE ANNOTATED, RELATIVE TO NOTIFICATION OF
BREACHES OF PERSONAL INFORMATION.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Chapter 48 is *added* to Title 9, Guam Code Annotated, to
3 read:

4 **“CHAPTER 48**
5 **NOTIFICATION OF BREACHES OF PERSONAL INFORMATION**

1 **§48.10. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
2 that both public and private entities on Guam have a duty to safeguard personal
3 information that, *if stolen or publicized*, may result in crimes such as fraud and
4 identity theft. The anonymity of the global internet, that transcends the borders
5 of sovereign nations, makes it possible for unscrupulous individuals to profit
6 from the theft of personal information and never be brought to justice for their
7 crimes *or* made to pay restitution. Therefore, it is incumbent upon all entities
8 that are entrusted with such data to maintain strong security systems to ensure
9 that the personal information will always be protected.

10 It is the intent of *I Liheslatura* to ensure that the personal information of
11 the residents of Guam is protected, by providing procedures for notification of
12 security breaches related to personal information and thereby encouraging
13 individuals and commercial entities, as defined by public law, to provide
14 reasonable security for unencrypted personal information.

15 **§48.20. Definitions.** As used in this Chapter:

16 (a) *Breach of the security of a system* means the unauthorized
17 access and acquisition of unencrypted and unredacted computerized data
18 that compromises the security *or* confidentiality of personal information
19 maintained by an individual *or* entity as part of a database of personal
20 information regarding multiple individuals and that causes, *or* the
21 individual *or* entity reasonably believes has caused *or* will cause, identity
22 theft *or* other fraud to any resident of Guam.

23 Good faith acquisition of personal information by an employee *or*
24 agent of an individual *or* entity for the purposes of the individual *or* the
25 entity is *not* a breach of the security of the system, provided, that the
26 personal information is *not* used for a purpose other than a lawful

1 purpose of the individual *or* entity *or* subject to further unauthorized
2 disclosure.

3 (b) *Entity* includes corporations, business trusts, estates,
4 partnerships, limited partnerships, limited liability partnerships, limited
5 liability companies, associations, organizations, joint ventures,
6 governments, governmental subdivisions, agencies, *or* instrumentalities,
7 *or* any other legal entity, whether for profit *or* not-for-profit.

8 (c) *Encrypted* means transformation of data through the use of
9 an algorithmic process into a form in which there is a low probability of
10 assigning meaning without the use of a confidential process *or* key, *or*
11 securing the information by another method that renders the data
12 elements unreadable *or* unusable.

13 (d) *Financial institution* has the meaning given that term in
14 Section 6809(3) of Title 15, United States Code.

15 (e) *Individual* means a natural person.

16 (f) *Personal information* means the first name, *or* first initial,
17 and last name in combination with and linked to any one *or* more of the
18 following data elements that relate to a resident of Guam, when the data
19 elements are *neither* encrypted *nor* redacted:

20 (1) Social Security number;

21 (2) Driver's license number *or* Guam identification card
22 number issued in lieu of a driver's license; *or*

23 (3) Financial account number, *or* credit card *or* debit card
24 number, in combination with any required security
25 code, access code, *or* password that would permit
26 access to a resident's financial accounts.

1 (4) The term *does not* include information that is lawfully
2 obtained from publicly available information, *or* from
3 Federal, State, *or* local government records lawfully
4 made available to the general public.

5 (g) *Notice* means:

6 (1) Written notice to the postal address in the records of the
7 individual *or* entity;

8 (2) Telephone notice;

9 (3) Electronic notice; *or*

10 (4) Substitute notice, *if* the individual *or* the entity required
11 to provide notice demonstrates that the cost of
12 providing notice will *exceed* Ten Thousand Dollars
13 (\$10,000), *or* that the affected class of residents to be
14 notified *exceeds* five thousand (5,000) persons, *or* that
15 the individual *or* the entity does *not* have sufficient
16 contact information *or* consent to provide notice as
17 described in paragraphs 1, 2, *or* 3. Substitute notice
18 consists of any two (2) of the following:

19 (A) E-mail notice *if* the individual *or* the entity has
20 e-mail addresses for the members of the affected class of
21 residents;

22 (B) Conspicuous posting of the notice on the
23 Website of the individual *or* the entity, *if* the individual *or*
24 the commercial entity maintains a Website; and

25 (C) Notice to major Guam media.

1 (h) *Redact* means alteration *or* truncation of data such that *no*
2 *more than* the following are accessible as part of the personal
3 information:

4 (1) five (5) digits of a Social Security Number, *or*

5 (2) The last four (4) digits of a driver's license number,
6 Guam identification card number *or* financial account number.

7 **§48.30. Disclosure of Breach of Security of Computerized Personal**
8 **Information by an Individual *or* Entity.**

9 (a) **General Rule.** An individual *or* entity that owns *or* licenses
10 computerized data that includes personal information *shall* disclose any breach
11 of the security of the system following discovery *or* notification of the breach of
12 the security of the system to any resident of Guam whose unencrypted and
13 unredacted personal information was *or* is reasonably believed to have been
14 accessed and acquired by an unauthorized person and that causes, *or* the
15 individual *or* entity reasonably believes has caused *or* will cause, identity theft
16 *or* other fraud to any resident of Guam. *Except* as provided in subsection (d) of
17 this Section, *or* in order to take any measures necessary to determine the scope
18 of the breach and to restore the reasonable integrity of the system, the
19 disclosure *shall* be made without unreasonable delay.

20 (b) **Encrypted Information.** An individual *or* entity must disclose the
21 breach of the security of the system *if* encrypted information is accessed and
22 acquired in an unencrypted form, *or if* the security breach involves a person
23 with access to the encryption key and the individual *or* entity reasonably
24 believes that such breach has caused *or* will cause identity theft *or* other fraud
25 to any resident of Guam.

1 (c) An individual *or* entity that maintains computerized data that
2 includes personal information that the individual *or* entity *does not* own or
3 license *shall* notify the owner *or* licensee of the information of any breach of
4 the security of the system as soon as practicable following discovery, *if* the
5 personal information was, *or* if the entity reasonably believes was, accessed and
6 acquired by an unauthorized person.

7 (d) Notice required by this Section may be delayed *if* a law enforcement
8 agency determines and advises the individual *or* entity that the notice will
9 impede a criminal *or* civil investigation, *or* homeland *or* national security.
10 Notice required by this Section must be made without unreasonable delay after
11 the law enforcement agency determines that notification will no longer impede
12 the investigation *or* jeopardize national *or* homeland security.

13 **§48.40. Procedures Deemed in Compliance with Security Breach**
14 **Requirements.**

15 (a) **Information Privacy *or* Security Policy.** An entity that maintains
16 its own notification procedures as part of an information privacy *or* security
17 policy for the treatment of personal information and that are consistent with the
18 timing requirements of this Chapter *shall* be deemed to be in compliance with
19 the notification requirements of this Chapter *if* it notifies residents of Guam in
20 accordance with its procedures in the event of a breach of security of the
21 system.

22 (b) **Compliance with Federal requirements.**

23 (1) A financial institution that complies with the notification
24 requirements prescribed by the Federal Interagency Guidance on
25 Response Programs for Unauthorized Access to Customer Information
26 and Customer Notice is deemed to be in compliance with this Chapter.

1 (2) An entity that complies with the notification requirements *or*
2 procedures pursuant to the rules, regulations, procedures, *or* guidelines
3 established by the entity's primary *or* functional Federal regulator *shall*
4 be in compliance with this Chapter.

5 **§48.50. Violations.**

6 (a) A violation of this Chapter that results in injury *or* loss to residents
7 of Guam may be enforced by the Office of the Attorney General.

8 (b) *Except* as provided by §48.40 of this Chapter, the Office of the
9 Attorney General *shall* have exclusive authority to bring action and may obtain
10 either actual damages for a violation of this Chapter *or* a civil penalty *not to*
11 *exceed* One Hundred Fifty Thousand Dollars (\$150,000) per breach of the
12 security of the system *or* series of breaches of a similar nature that are
13 discovered in a single investigation.

14 **§48.60. Applicability.** This Chapter *shall* apply to the discovery *or*
15 notification of a breach of the security of the system that occurs on *or* after the
16 effective date of this Chapter.

17 **§48.70. Effective Date.** This Chapter *shall* take effect one hundred
18 twenty (120) days after the date of enactment.

19 **§48.80. Preemption.** This Chapter deals with subject matter that is of
20 island-wide concern, and it is the intent of *I Liheslatura* that this Chapter *shall*
21 supersede and preempt all rules and regulations regarding the matters expressly
22 set forth in this Chapter.”

I MINA' TRENTA NA LIHESLATURAN GUAHAN
2009 (FIRST) Regular Session

Date: 2-27-09

VOTING SHEET

SBill No. 9(LS)

Resolution No. _____

Question: _____

| <u>NAME</u> | <u>YEAS</u> | <u>NAYS</u> | <u>NOT VOTING/ ABSTAINED</u> | <u>OUT DURING ROLL CALL</u> | <u>ABSENT</u> |
|-----------------------------------|-------------|-------------|----------------------------------|---------------------------------|---------------|
| ADA, Thomas C. | ✓ | | | | |
| AGUON, Frank B., Jr. | ✓ | | | | |
| BLAS, Frank F., Jr. | ✓ | | | | |
| CALVO, Edward J.B. | ✓ | | | | |
| CRUZ, Benjamin J. F. | ✓ | | | | |
| ESPALDON, James V. | ✓ | | | | |
| GUTHERTZ, Judith Paulette | ✓ | | | | |
| MUNA-BARNES, Tina Rose | ✓ | | | | |
| PALACIOS, Adolpho Borja, Sr. | ✓ | | | | |
| PANGELINAN, vicente (ben) cabrera | ✓ | | | | |
| RECTOR, Matthew | | | | | ✓ |
| RESPICIO, Rory J. | ✓ | | | | |
| TAITAGUE, Telo | ✓ | | | | |
| TENORIO, Ray | ✓ | | | | |
| WON PAT, Judith T. | ✓ | | | | |

TOTAL

14 _____ _____ _____ 1

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



Thirtieth
Guam Legislature

Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:

Senator Adolpho B. Palacios, Sr.
Chairman

Senator Roy Tenorio
Vice Chairman

Speaker Judith T. Won Pat
Member

Senator Thomas C. Ada
Member

Senator Frank B. Aguon, Jr.
Member

Senator Matt Rector
Member

Senator Edward J.B. Calvo
Member

Senator James V. Espaldon
Member

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

February 11, 2009

The Honorable Rory J. Respicio
Senator and Chairman
Committee on Rules, Natural Resources, Federal,
Foreign, and Micronesia Affairs
I Mina'Trenta na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

RE: Committee Recommendation.

Dear Senator Respicio:

The Committee on Public Safety, Law Enforcement, & Senior Citizens, to which was referred **Bill No. 9 (LS): "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION,"** herein reports back with its recommendation.

Votes are as follows:

| | |
|----------|--------------------|
| <u>6</u> | TO PASS |
| _____ | NOT TO PASS |
| <u>1</u> | TO REPORT OUT ONLY |
| _____ | ABSTAIN |
| _____ | INACTIVE FILE |

Sincerely,

ADOLPHO B. PALACIOS, SR., MPA, BS/CJA

Attachments

2009 FEB 11 PM 1:53



**Thirtieth
Guam Legislature**

**Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:**

**Senator Adolpho B. Palacios, Sr.
Chairman**

**Senator Ray Tenorio
Vice Chairman**

**Speaker Judith T. Won Pat
Member**

**Senator Thomas C. Ada
Member**

**Senator Frank B. Aguon, Jr.
Member**

**Senator Matt Rector
Member**

**Senator Edward J.B. Calvo
Member**

**Senator James V. Espaldon
Member**

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan


SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

February 10, 2009

MEMORANDUM

TO: ALL MEMBERS
Committee on Public Safety, Law Enforcement, & Senior Citizens

FROM: Chairman, Committee on Public Safety, Law Enforcement,
& Senior Citizens 

SUBJECT: Voting Sheet.

Transmitted herewith are the voting sheet and the Committee Report on **Bill No. 9 (LS)**, "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION," for your review and vote via signature.

Your attention to this matter is greatly appreciated.

Attachments

Office/Mailing Address: 155 Hester Pl., Hagatña GU 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

VOTING SHEET ON:

Bill No. 9 (LS): "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION."

| SENATOR | SIGNATURE | TO PASS | NOT TO PASS | TO REPORT OUT ONLY | ABSTAIN | INACTIVE FILE |
|--------------------------------------|-----------|---------|-------------|--------------------|---------|---------------|
| Adolpho B. Palacios, Sr. Chairman | | ✓ | | | | |
| Ray Tenorio Vice Chairman | | ✓ | | | | |
| Speaker Judith T. Won Pat Member | | | | ✓ | | |
| Thomas C. Ada Member | | ✓ | | | | |
| Frank B. Aguon, Jr. Member | | ✓ | | | | |
| Matt Rector Member | | ✓ | | | | |
| Edward J.B. Calvo Member | | ✓ | | | | |
| James V. Espaldon Member | | | | | | |

I MINA'TRENTA NA LIHESLATURÁN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 9 (LS)

As Substituted by the Committee on
Public Safety, Law Enforcement, and Senior Citizens

Introduced by:

Ray Tenorio

**AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE
ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF
PERSONAL INFORMATION.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Chapter 48 is *added* to 9GCA to read:

3 **“CHAPTER 48**

4 **NOTIFICATION OF BREACHES OF PERSONAL INFORMATION**

5 **§48100. Legislative Intent.** *I Liheslaturan Guåhan* finds that both public
6 and private entities on Guam have a duty to safeguard personal information that,
7 if stolen or publicized, may result in crimes such as fraud and identity theft. The
8 anonymity of the global internet, that transcends the borders of sovereign
9 nations, makes it possible for unscrupulous individual to profit from the theft of
10 personal information and never be brought to justice for their crimes or made to
11 pay restitution. Therefore it is incumbent upon all entities that are entrusted
12 with such data to maintain strong security systems to ensure the personal
13 information will always be protected.

14 It is the intent of *I Liheslatura* to ensure that the personal information of
15 residents of Guam is protected by providing procedures for notification of

1 security breaches related to personal information and thereby encouraging
2 individuals and commercial entities, as defined by Public Law, to provide
3 reasonable security for unencrypted personal information.

4 **§48101. Definitions** as used in this Chapter:

5 1. **"Breach of the security of a system"** means the unauthorized access
6 and acquisition of unencrypted and unredacted computerized data
7 that compromises the security or confidentiality of personal
8 information maintained by an individual or entity as part of a database
9 of personal information regarding multiple individuals and that causes
10 or the individual or entity reasonably believes has caused or will cause
11 identity theft or other fraud to any resident of Guam.

12 a. Good faith acquisition of personal information by an employee
13 or agent of an individual or entity for the purposes of the
14 individual or the entity is not a breach of the security of the
15 system, provided that the personal information is not used for a
16 purpose other than a lawful purpose of the individual or entity
17 or subject to further unauthorized disclosure.

18 2. **"Entity"** includes corporations, business trusts, estates, partnerships,
19 limited partnerships, limited liability partnerships, limited liability
20 companies, associations, organizations, joint ventures, governments,
21 governmental subdivisions, agencies, or instrumentalities, or any other
22 legal entity, whether for profit or not-for-profit.

23 3. **"Encrypted"** means transformation of data through the use of an
24 algorithmic process to into a form in which there is a low probability of
25 assigning meaning without use of a confidential process or key, or
26 securing the information by another method that renders the data
27 elements unreadable or unusable.

- 1 4. **"Financial institution"** has the meaning given that term in section
2 6809(3) of title 15, United States Code.
- 3 5. **"Individual"** means a natural person.
- 4 6. **"Personal information"** means the first name or first initial and last
5 name in combination with and linked to any one or more of the
6 following data elements that relate to a resident of Guam, when the
7 data elements are neither encrypted nor redacted:
- 8 a. Social Security number;
- 9 b. Driver's license number or Guam identification card number
10 issued in lieu of a driver's license; or
- 11 c. Financial account number, or credit card or debit card number, in
12 combination with any required security code, access code, or
13 password that would permit access to a resident's financial
14 accounts.
- 15 d. The term does not include information that is lawfully obtained
16 from publicly available information, or from Federal, State, or
17 local government records lawfully made available to the general
18 public.
- 19 7. **"Notice"** means:
- 20 a. Written notice to the postal address in the records of the
21 individual or entity;
- 22 b. Telephone notice;
- 23 c. Electronic notice; or
- 24 d. Substitute notice, if the individual or the entity required to
25 provide notice demonstrates that the cost of providing notice
26 will exceed Ten Thousand Dollars \$10,000, or that the affected
27 class of residents to be notified exceeds Five Thousand (5,000)

1 persons, or that the individual or the entity does not have
2 sufficient contact information or consent to provide notice as
3 described in paragraphs a., b. or c. Substitute notice consists of
4 any two of the following:

5 i. E-mail notice if the individual or the entity has e-mail
6 addresses for the members of the affected class of
7 residents; and

8 ii. Conspicuous posting of the notice on the Web site of the
9 individual or the entity if the individual or the
10 commercial entity maintains a Web site; and

11 iii. Notice to major Guam media.

12 8. **"Redact"** means alteration or truncation of data such that no more than
13 the following are accessible as part of the personal information:

14 a. Five digits of a Social Security Number, or

15 b. The last four digits of a driver's license number, Guam
16 identification card number or account number.

17 **§48102. Disclosure of Breach of Security of Computerized Personal**
18 **Information by an Individual or Entity.**

19 1. **General rule.** An individual or entity that owns or licenses
20 computerized data that includes personal information shall disclose any breach
21 of the security of the system following discovery or notification of the breach of
22 the security of the system to any resident of Guam whose unencrypted and
23 unredacted personal information was or is reasonably believed to have been
24 accessed and acquired by an unauthorized person and that causes, or the
25 individual or entity reasonably believes has caused or will cause, identity theft or
26 other fraud to any resident of Guam. Except as provided in paragraph 4 or in
27 order to take any measures necessary to determine the scope of the breach and to

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

3 2. **Encrypted information.** An individual or entity must disclose the
4 breach of the security of the system if encrypted information is accessed and
5 acquired in an unencrypted form, or if the security breach involves a person with
6 access to the encryption key and the individual or entity reasonably believes that
7 such breach has caused or will cause identity theft or other fraud to any resident
8 of Guam.

9 3. An individual or entity that maintains computerized data that includes
10 personal information that the individual or entity does not own or license shall
11 notify the owner or licensee of the information of any breach of the security of
12 the system as soon as practicable following discovery, if the personal information
13 was or is the entity reasonably believes was accessed and acquired by an
14 unauthorized person.

15 4. Notice required by this Section may be delayed if a law enforcement
16 agency determines and advises the individual or entity that the notice will
17 impede a criminal or civil investigation, or homeland or national security.
18 Notice required by this Section must be made without unreasonable delay after
19 the law enforcement agency determines that notification will no longer impede
20 the investigation or jeopardize national or homeland security.

21 **§48103. Procedures Deemed in Compliance with Security Breach**
22 **Requirements.**

23 1. **Information privacy or security policy.** An entity that maintains its
24 own notification procedures as part of an information privacy or security policy
25 for the treatment of personal information and that are consistent with the timing
26 requirements of this Chapter shall be deemed to be in compliance with the

1 notification requirements of this Chapter if it notifies residents of Guam in
2 accordance with its procedures in the event of a breach of security of the system.

3 **2. Compliance with Federal requirements.**

4 a. A financial institution that complies with the notification
5 requirements prescribed by the Federal Interagency Guidance on
6 Response Programs for Unauthorized Access to Customer
7 Information and Customer Notice is deemed to be in compliance
8 with this Chapter.

9 b. An entity that complies with the notification requirements or
10 procedures pursuant to the rules, regulation, procedures, or
11 guidelines established by the entity's primary or functional Federal
12 regulator shall be in compliance with this Chapter.

13 **§48104. Violations.**

14 1. A violation of this Chapter that results in injury or loss to residents
15 of Guam may be enforced by the Office of the Attorney General as
16 ~~an unfair trade practice pursuant to 5GCA: Chapter 32.~~

17 2. Except as provided by §48103 of this Chapter, the Office of the
18 Attorney General shall have exclusive authority to bring action and
19 may obtain either actual damages for a violation of this Chapter or
20 a civil penalty not to exceed One Hundred Fifty Thousand Dollars
21 (\$150,000) per breach of the security of the system or series of
22 breaches of a similar nature that are discovered in a single
23 investigation.

24 3. A violation of this Chapter by a Guam-chartered or licensed
25 financial institution shall be enforceable exclusively by the financial
26 institution's primary regulatory entity within the Department of

1 Revenue and Taxation (such as the Insurance and Banking
2 Commissioner).

3 **§48105. Applicability.** This Chapter shall apply to the discovery or
4 notification of a breach of the security of the system that occurs on or after the
5 effective date of this section.

6 **§48106. Effective Date.** This Chapter shall take effect in One Hundred
7 Twenty (120) days after the date of enactment.

8 **§48107. Preemption.** This Chapter deals with subject matter that is of
9 island-wide concern, and it is the intent of the Legislature that this Article shall
10 supersede and preempt all rules and regulations regarding the matters expressly
11 set forth in this Chapter.”

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 9 (LS)

Introduced by:

Ray Tenorio 

AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9,
GUAM CODE ANNOTATED RELATIVE TO
NOTIFICATION OF BREACHES OF PERSONAL
INFORMATION”.

2009 JAN - 5 AM 10: 52

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2

3 Section 1. A new Chapter 48 is *added* to 9GCA to read:

4

5 §48100. **Legislative Intent.** *I Liheslaturan Guåhan* finds that both public and private
6 entities on Guam have a duty to safeguard personal information that, if stolen or
7 publicized, may result in crimes such as fraud and identity theft. The anonymity of the
8 global internet, that transcends the borders of sovereign nations, makes it possible for
9 unscrupulous individual to profit from the theft of personal information and never be
10 brought to justice for their crimes or made to pay restitution. Therefore it is incumbent
11 upon ~~every~~ all entities that are entrusted with such data to maintain strong security
12 systems to ensure the personal information will always be protected.

13

14 It is the intent of *I Liheslatura* to ~~help~~ ensure that the personal information of
15 residents of Guam is protected by providing procedures for notification of security
16 breaches related to personal information and thereby encouraging individuals and

1 commercial entities, as defined ~~in the bill~~ by Public Law, to provide reasonable security
2 for unencrypted personal information.

3
4 **§48101. Definitions** as used in this Chapter:

5
6 1. **“Breach of the security of a system”** means the unauthorized access and
7 acquisition of unencrypted and unredacted computerized data that compromises
8 the security or confidentiality of personal information maintained by an
9 individual or entity as part of a database of personal information regarding
10 multiple individuals and that causes or the individual or entity reasonably
11 believes has caused or will cause identity theft or other fraud to any resident of
12 Guam.

13
14 a. Good faith acquisition of personal information by an employee or agent
15 of an individual or entity for the purposes of the individual or the entity is
16 not a breach of the security of the system, provided that the personal
17 information is not used for a purpose other than a lawful purpose of the
18 individual or entity or subject to further unauthorized disclosure.

19
20 2. **“Entity”** includes corporations, business trusts, estates, partnerships, limited
21 partnerships, limited liability partnerships, limited liability companies,
22 associations, organizations, joint ventures, governments, governmental
23 subdivisions, agencies, or instrumentalities, or any other legal entity, whether for
24 profit or not-for-profit.

25
26 3. **“Encrypted”** means transformation of data through the use of an algorithmic
27 process to into a form in which there is a low probability of assigning meaning

1 without use of a confidential process or key, or securing the information by
2 another method that renders the data elements unreadable or unusable.

3
4 4. "**Financial institution**" has the meaning given that term in section 6809(3) of
5 title 15, United States Code.

6
7 5. "**Individual**" means a natural person.

8
9 6. "**Personal information**" means the first name or first initial and last name in
10 combination with and linked to any one or more of the following data elements
11 that relate to a resident of Guam, when the data elements are neither encrypted
12 nor redacted:

13
14 a. Social Security number;

15
16 b. Driver's license number or Guam identification card number issued in
17 lieu of a driver's license; or

18
19 c. Financial account number, or credit card or debit card number, in
20 combination with any required security code, access code, or password that
21 would permit access to a resident's financial accounts.

22
23 d. The term does not include information that is lawfully obtained from
24 publicly available information, or from Federal, State, or local government
25 records lawfully made available to the general public.

26
27 7. "**Notice**" means:

1
2 a. Written notice to the postal address in the records of the individual or
3 entity;

4
5 b. Telephone notice;

6
7 c. Electronic notice; or

8
9 d. Substitute notice, if the individual or the entity required to provide
10 notice demonstrates that the cost of providing notice will exceed Ten
11 Thousand Dollars \$10,000, or that the affected class of residents to be
12 notified exceeds Five Thousand (5,000) persons, or that the individual or
13 the entity does not have sufficient contact information or consent to
14 provide notice as described in paragraphs a., b. or c. Substitute notice
15 consists of any two of the following:

16
17 i. E-mail notice if the individual or the entity has e-mail addresses
18 for the members of the affected class of residents; and

19
20 ii. Conspicuous posting of the notice on the Web site of the
21 individual or the entity if the individual or the commercial entity
22 maintains a Web site; and

23
24 iii. Notice to major Guam media.

25
26 8. **"Redact"** means alteration or truncation of data such that no more than the
27 following are accessible as part of the personal information:

- 1 a. Five digits of a Social Security Number, or
2 b. The last four digits of a driver's license number, Guam identification
3 card number or account number.
4

5 **§48102. Disclosure of Breach of Security of Computerized Personal Information**
6 **by an Individual or Entity.**

7 1. **General rule.**--An individual or entity that owns or licenses computerized data that
8 includes personal information shall disclose any breach of the security of the system
9 following discovery or notification of the breach of the security of the system to any
10 resident of Guam whose unencrypted and unredacted personal information was or is
11 reasonably believed to have been accessed and acquired by an unauthorized person and
12 that causes, or the individual or entity reasonably believes has caused or will cause,
13 identity theft or other fraud to any resident of Guam. Except as provided in paragraph 4
14 or in order to take any measures necessary to determine the scope of the breach and to
15 restore the reasonable integrity of the system, the disclosure shall be made without
16 unreasonable delay.
17

18 2. **Encrypted information.**--An individual or entity must disclose the breach of the
19 security of the system if encrypted information is accessed and acquired in an
20 unencrypted form, or if the security breach involves a person with access to the
21 encryption key and the individual or entity reasonably believes that such breach has
22 caused or will cause identity theft or other fraud to any resident of Guam.
23

24 3. An individual or entity that maintains computerized data that includes personal
25 information that the individual or entity does not own or license shall notify the owner
26 or licensee of the information of any breach of the security of the system as soon as

1 practicable following discovery, if the personal information was or is the entity
2 reasonably believes was accessed and acquired by an unauthorized person.

3

4 4. Notice required by this Section may be delayed if a law enforcement agency
5 determines and advises the individual or entity that the notice will impede a criminal or
6 civil investigation, or homeland or national security. Notice required by this Section
7 must be made without unreasonable delay after the law enforcement agency determines
8 that notification will no longer impede the investigation or jeopardize national or
9 homeland security.

10

11 **§48103. Procedures Deemed in Compliance with Security Breach Requirements.**

12 1. Information privacy or security policy.--An entity that maintains its own
13 notification procedures as part of an information privacy or security policy for
14 the treatment of personal information and that are consistent with the timing
15 requirements of this Chapter shall be deemed to be in compliance with the
16 notification requirements of this Chapter if it notifies residents of Guam in
17 accordance with its procedures in the event of a breach of security of the system.

18

19 2. Compliance with Federal requirements.

20

21 a. A financial institution that complies with the notification requirements
22 prescribed by the Federal Interagency Guidance on Response Programs for
23 Unauthorized Access to Customer Information and Customer Notice is
24 deemed to be in compliance with this Chapter.

25

26 b. An entity that complies with the notification requirements or procedures
27 pursuant to the rules, regulation, procedures, or guidelines established by

1 the entity's primary or functional Federal regulator shall be in compliance
2 with this Chapter.

3
4 **§48104. Violations**

5 1. A violation of this Chapter that results in injury or loss to residents of Guam
6 may be enforced by the Office of the Attorney General as an unfair trade practice
7 pursuant to 5GCA: Chapter 32.

8
9 2. Except as provided by §48103 of this Chapter, the Office of the Attorney
10 General shall have exclusive authority to bring action and may obtain either
11 actual damages for a violation of this Chapter or a civil penalty not to exceed
12 One Hundred Fifty Thousand Dollars (\$150,000) per breach of the security of the
13 system or series of breaches of a similar nature that are discovered in a single
14 investigation.

15
16 3. A violation of this Chapter by a Guam-chartered or licensed financial
17 institution shall be enforceable exclusively by the financial institution's primary
18 regulatory entity within the Department of Revenue and Taxation (such as the
19 Insurance and Banking Commissioner).

20
21 **§48105. Applicability**

22 This Chapter shall apply to the discovery or notification of a breach of the security of
23 the system that occurs on or after the effective date of this section.

24
25 **§48106. Effective Date** This Chapter shall take effect in One Hundred Twenty (120)
26 days after the date of enactment.

1 **§48107. Preemption.** This Chapter deals with subject matter that is of Islandwide
2 concern, and it is the intent of the Legislature that this Article shall supersede and
3 preempt all rules and regulations regarding the matters expressly set forth in this
4 Chapter.



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guahan

PUBLIC HEARING

Bill No. 9 (LS): "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION."

I. OVERVIEW

The Committee on Public Safety, Law Enforcement, & Senior Citizens convened the public hearing on Thursday, January 29, 2009. Hearing began at 9:05 a.m. on Bill 9 (LS). Notices of the hearing were disseminated to all local media outlets via facsimile on January 20, 2009 and on January 27, 2009, thus meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

Committee Members and Senators present:

Senator Adolpho B. Palacios, Sr., Chairman
Senator Ray Tenorio, Vice Chairman
Senator Thomas C. Ada, Member
Senator Frank B. Aguon Jr., Member
Senator Matt Rector, Member
Senator Edward J.B. Calvo, Member
Senator Telo T. Taitague

Individual(s) Registered for oral or written testimony:

Mr. Dan Tydingco, Judiciary of Guam

II. SUMMARY OF TESTIMONIES

Chairman Adolpho B. Palacios, Sr. called the Committee on Public Safety, Law Enforcement, and Senior Citizens to order at 9:05am, welcomed and introduced senators present.

Chairman Palacios especially recognized the author of the bill, Senator Ray Tenorio, who gave a brief presentation of the bill.

Senator Ray Tenorio congratulated Chairman Palacios on being the chairman of the committee in the 30th Guam Legislature and made mention that he is the vice chair for the committee. He mentioned that Bill 9(LS) was necessary in order to protect the privacy of persons, especially with regards to personal information.

Chairman Palacios called those who are present to testify.

Mr. Dan Tydingco, Judiciary of Guam, Oral Testimony in General Support of Bill No. 9 (LS). Mr. Tydingco offered recommendations concerning specific sections on the measure. He stated that the Judiciary is very sensitive in having personal information kept confidential. The Judiciary has computer systems in place, such as firewalls, to safeguard personal information. Mr. Tydingco presented staff and staff attorney comments/questions on the measure of which may have substantial impact on the Marshall Division, the Compiler of Laws, and Staff Attorneys.

Chairman Palacios allowed senators to give comments and/or questions.

Senator Aguon commented that the external review by the FBI is very reassuring in that the public is protected in the event that there is a breach in personal information. In addition, he asked Mr. Tydingco that the Judiciary submit written testimony to address critical areas such as sovereign immunity on government agencies and the government claims act.

Senator Tenorio in following up on the request made by Senator Aguon, emphasized that a written testimony be submitted in order for the committee to address these issues in the mark up meeting. He further stated "with regard to sovereign immunity, if one chooses to abuse his/her authority, they will be accountable for their actions." Furthermore, Senator Tenorio stated "with regards to the Government Claims Act, the Legislature and the Judiciary need to sit to discuss and to clarify where this section may fall, either Title 5GCA or Title 9 GCA."

Mr. Dan Tydingco also expressed that the Chief Justice has created public access to records committee due to a high influx of requests from various agencies, including the media. The Judiciary, at a later date, will be presenting pressing issues to the Legislature with regards to the Sunshine Act and the Open Government Laws. Lastly, Mr. Tydingco stated that the Judiciary is working with the Guam Community College to develop a curriculum program to allow students training and certification.

Chairman Palacios asked Mr. Tydingco that "if this bill should pass, would there be significant costs associated with this passing?" Mr. Tydingco responded that he did not know what the cost implications would be at this time.

Senator Tenorio in response to Chairman Palacios, stated that "there would be a minimal amount of costs associated, there is already a system in place to guard and protect the public, and the intent of this bill is to strengthen the current system."

Senator Aguon mentioned that there may not be any problem to redact information as this is already being done. However, he suggested that the open government law be modified and costs associated be calculated.

Chairman Palacios concluded the hearing and requested that written testimony be submitted within the next ten (10) days. He adjourned the hearing at 9:35am.

III. WRITTEN TESTIMONIES

No written testimony received within the ten day period after the public hearing.

IV. FINDINGS AND RECOMMENDATIONS

The Committee on Public Safety, Law Enforcement, & Senior Citizens finds that Bill No. 9 (LS) intends to ensure that personal information of residents of Guam are protected by providing procedures for notification of security breaches related to personal information and also encourages individuals and commercial entities to provide security for encrypted personal information. With the notification of breaches of personal information, the public is protected. In the event that personal information is breached, Bill No. 9 (LS) may provide clarification on protocol and proper procedures in the handling of such cases.

Accordingly, the Committee on Public Safety, Law Enforcement, & Senior Citizens to which **Bill No. 9 (LS)** was referred does hereby submit its findings and recommendations to *I Mina'Trenta na Liheslaturan Guåhan* **TO PASS Bill No. 9 (LS), as substituted**, "AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9, GUAM CODE ANNOTATED RELATIVE TO NOTIFICATION OF BREACHES OF PERSONAL INFORMATION."



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

January 20, 2009

(Pursuant to §8107, Title 5 GCA -
5 working days prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing at 9:00 am, Thursday, January 29, 2009 at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 9 (LS)** – “An Act to Add a New Chapter 48 to Title 9, Guam Code Annotated Relative to Notification of Breaches of Personal Information.” – by Senator Ray Tenorio.
- **Bill No. 11 (LS)** – “An Act to Add a New Article 3 to Chapter 70 of 9 GCA Relative to Laser Safety.” – by Senator Ray Tenorio.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Jonathan Diaz or Priscilla Cruz at 472-5047/5048.

Office/Mailing Address: 155 Nesler Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



OFFICE OF SENATOR
ADOLPHO B. PALACIOS, SR.
I MINA'TRENTA NA LIHESLATURAN GUAHAN

FACSIMILE TRANSMITTAL SHEET

DATE: January 20, 2009

| | | |
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| TO: | KUAM | 637-9870 |
| | TV 14 | 637-8819 |
| | PDN | 477-3079 |
| | Marianas Variety | 648-2007 |
| | K-57/Power 98 | 477-3982 |
| | Hit Radio 100 | 472-7663 |
| | KStereo/KISH | 477-6411 |

FROM: Senator Adolpho B. Palacios, Sr.

SUBJECT: Public Hearing Notice.

PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

MULTI COMMUNICATION REPORT

JAN-20-2009 10:52 AM TUE

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NAME :

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PAGES : 2

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| 6379870 | |
| 4773079 | |
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| 4773982 | |
| 4727663 | |
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2. UNSUCCESSFUL

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| 6378819 | |

3. MULTI COMMUNICATION JOURNAL

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| 007 | 6482007 | 01-20 10:48AM | 00' 14" | ECM BC | 002/002 | [O.K] |
| 007 | 4773982 | 01-20 10:49AM | 00' 16" | ECM BC | 002/002 | [O.K] |
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| 007 | 4776411 | 01-20 10:50AM | 00' 34" | ECM BC | 002/002 | [O.K] |
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MESSAGE CONFIRMATION

JAN-20-2009 11:25 AM TUE

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NAME :

NAME/NUMBER : 6378819
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RESULTS : [O.K]



OFFICE OF SENATOR
ADOLPHO B. PALACIOS, SR.
I MINA'TRENTA NA LIHESLATURAN GUAHAN

FACSIMILE TRANSMITTAL SHEET

DATE: January 20, 2009
TO: KUAM 637-6870
TV 14 637-8818
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
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KStar90/USH 477-6411
FROM: Senator Adolpho B. Palacios, Sr.
SUBJECT: Public Hearing Notice.
PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

January 27, 2009

(Pursuant to §8107, Title 5 GCA -
48 hours prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing at 9:00 am, Thursday, January 29, 2009 at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 9 (LS)** – “An Act to Add a New Chapter 48 to Title 9, Guam Code Annotated Relative to Notification of Breaches of Personal Information.” – by Senator Ray Tenorio.
- **Bill No. 11 (LS)** – “An Act to Add a New Article 3 to Chapter 70 of 9 GCA Relative to Laser Safety.” – by Senator Ray Tenorio.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Jonathan Diaz or Priscilla Cruz at 472-5047/5048.

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OFFICE OF SENATOR
ADOLPHO B. PALACIOS, SR.
I MINA'TRENTA NA LIHESLATURAN GUAHAN

FACSIMILE TRANSMITTAL SHEET

DATE: January 27, 2009

TO:

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| KUAM | 637-9870 |
| TV 14 | 637-8819 |
| PDN | 477-3079 |
| Marianas Variety | 648-2007 |
| K-57/Power 98 | 477-3982 |
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PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

MULTI COMMUNICATION REPORT

JAN-27-2009 07:46 AM TUE

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PAGES : 2

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| 4776411 | |

2. UNSUCCESSFUL

| FAX NUMBER | NAME |
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| 6379870 | |

3. MULTI COMMUNICATION JOURNAL

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| 242 | 4773982 | 01-27 07:43AM | 00' 16" | ECM BC | 002/002 | [O.K] |
| 242 | 4727663 | 01-27 07:44AM | 00' 16" | ECM BC | 002/002 | [O.K] |
| 242 | 4776411 | 01-27 07:45AM | 00' 36" | ECM BC | 002/002 | [O.K] |
| 242 | 6379870 | 01-27 07:46AM | 00' 00" | G3 BC | 000/002 | [NO ANSWER] |

MESSAGE CONFIRMATION

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NAME :

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PAGE : 2
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MODE : STD ECM
RESULTS : [O.K]



OFFICE OF SENATOR
ADOLPHO B. PALACIOS, SR.
I MINA'TRENTA NA LIHESLATURAN GUAHAN

FACSIMILE TRANSMITTAL SHEET

DATE: January 27, 2009

TO: KUAM 637-9870
TV 14 637-8819
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KUSH 477-8411

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PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

PUBLIC HEARING

Thursday, January 29, 2009

9:00 a.m.

Public Hearing Room, I Liheslaturan Guåhan

Notices for the public hearing were disseminated to all local media via fax on January 20, 2009 and on January 27, 2009, pursuant to the Open Government Law.

AGENDA

- **Bill No. 9 (LS)** – “An Act to Add a New Chapter 48 to Title 9, Guam Code Annotated Relative to Notification of Breaches of Personal Information.” – by Senator Ray Tenorio.
- **Bill No. 11 (LS)** – “An Act to Add a New Article 3 to Chapter 70 of 9 GCA Relative to Laser Safety.” – by Senator Ray Tenorio.

The Committee will allow up to ten (10) days after the public hearing date for submission of testimonies written or electronic, to Senator Adolpho B. Palacios, Sr., Chairman, Committee on Public Safety, Law Enforcement, and Senior Citizens. Deadline for submission of testimonies will be February 8, 2009, after which time the Committee will prepare the Committee Report, in preparation for consideration by the legislative body.

GOVERNMENT MEETINGS

▲ Continued from Page

Jan. 29

▲ **A.B. Won Pat Guam International Airport Authority:** Board of directors' regular meeting 3 p.m., terminal conference room 3, Tamuning. Agenda copies available upon request. Parking is available in the public parking lot. For special accommodations, call 646-0300.

▲ **Committee on Public Safety, Law Enforcement and Senior Citizens:** Public hearing on Bills 9LS and 11LS rescheduled for 9 a.m., Legislature's public hearing room, Hagåtña. For special accommodations, call Priscilla Cruz, 472-50478.

▲ **Guam Memorial Hospital Authority:** Board of trustees' regular meeting 6 p.m. (open session), GMHA board room, first floor, C wing, Tamuning. Executive session will commence prior to regular business. For special accommodations, call Toni Villavicencio, 647-2218/2418 or TDD 649-1801.

▲ **Guam Pardon Review Board:** Regular hearing 3 p.m., Parole Services Division, fifth floor, Suite 504, DNA Building (formerly Pacific News Building), Hagåtña. For special accommodations, call 473-7001.

▲ **Guam Parole Board:** Regular hearing 8:30 a.m., Parole Services Division, fifth floor, Suite 504, DNA Building (formerly Pacific News Building), Hagåtña. For special accommodations, call 473-7001.

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 9 (LS)

Introduced by:

Ray Tenorio

AN ACT TO ADD A NEW CHAPTER 48 TO TITLE 9,
GUAM CODE ANNOTATED RELATIVE TO
NOTIFICATION OF BREACHES OF PERSONAL
INFORMATION".

2009 JAN - 5 AM 10: 52

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2

3 **Section 1.** A new Chapter 48 is *added* to 9GCA to read:

4

5 **§48100. Legislative Intent.** *I Liheslaturan Guåhan* finds that both public and private
6 entities on Guam have a duty to safeguard personal information that, if stolen or
7 publicized, may result in crimes such as fraud and identity theft. The anonymity of the
8 global internet, that transcends the borders of sovereign nations, makes it possible for
9 unscrupulous individual to profit from the theft of personal information and never be
10 brought to justice for their crimes or made to pay restitution. Therefore it is incumbent
11 upon ~~every~~ all entities that are entrusted with such data to maintain strong security
12 systems to ensure the personal information will always be protected.

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14 It is the intent of *I Liheslatura* to ~~help~~ ensure that the personal information of
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5
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9 individual or entity as part of a database of personal information regarding
10 multiple individuals and that causes or the individual or entity reasonably
11 believes has caused or will cause identity theft or other fraud to any resident of
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13
14 a. Good faith acquisition of personal information by an employee or agent
15 of an individual or entity for the purposes of the individual or the entity is
16 not a breach of the security of the system, provided that the personal
17 information is not used for a purpose other than a lawful purpose of the
18 individual or entity or subject to further unauthorized disclosure.

19
20 2. **“Entity”** includes corporations, business trusts, estates, partnerships, limited
21 partnerships, limited liability partnerships, limited liability companies,
22 associations, organizations, joint ventures, governments, governmental
23 subdivisions, agencies, or instrumentalities, or any other legal entity, whether for
24 profit or not-for-profit.

25
26 3. **“Encrypted”** means transformation of data through the use of an algorithmic
27 process to into a form in which there is a low probability of assigning meaning

1 without use of a confidential process or key, or securing the information by
2 another method that renders the data elements unreadable or unusable.

3
4 4. **“Financial institution”** has the meaning given that term in section 6809(3) of
5 title 15, United States Code.

6
7 5. **“Individual”** means a natural person.

8
9 6. **“Personal information”** means the first name or first initial and last name in
10 combination with and linked to any one or more of the following data elements
11 that relate to a resident of Guam, when the data elements are neither encrypted
12 nor redacted:

13
14 a. Social Security number;

15
16 b. Driver’s license number or Guam identification card number issued in
17 lieu of a driver’s license; or

18
19 c. Financial account number, or credit card or debit card number, in
20 combination with any required security code, access code, or password that
21 would permit access to a resident’s financial accounts.

22
23 d. The term does not include information that is lawfully obtained from
24 publicly available information, or from Federal, State, or local government
25 records lawfully made available to the general public.

26
27 7. **“Notice”** means:

1
2 a. Written notice to the postal address in the records of the individual or
3 entity;

4
5 b. Telephone notice;

6
7 c. Electronic notice; or

8
9 d. Substitute notice, if the individual or the entity required to provide
10 notice demonstrates that the cost of providing notice will exceed Ten
11 Thousand Dollars \$10,000, or that the affected class of residents to be
12 notified exceeds Five Thousand (5,000) persons, or that the individual or
13 the entity does not have sufficient contact information or consent to
14 provide notice as described in paragraphs a., b. or c. Substitute notice
15 consists of any two of the following:

16
17 i. E-mail notice if the individual or the entity has e-mail addresses
18 for the members of the affected class of residents; and

19
20 ii. Conspicuous posting of the notice on the Web site of the
21 individual or the entity if the individual or the commercial entity
22 maintains a Web site; and

23
24 iii. Notice to major Guam media.

25
26 8. **“Redact”** means alteration or truncation of data such that no more than the
27 following are accessible as part of the personal information:

- 1 a. Five digits of a Social Security Number, or
2 b. The last four digits of a driver's license number, Guam identification
3 card number or account number.
4

5 **§48102. Disclosure of Breach of Security of Computerized Personal Information**
6 **by an Individual or Entity.**

7 1. **General rule.**--An individual or entity that owns or licenses computerized data that
8 includes personal information shall disclose any breach of the security of the system
9 following discovery or notification of the breach of the security of the system to any
10 resident of Guam whose unencrypted and unredacted personal information was or is
11 reasonably believed to have been accessed and acquired by an unauthorized person and
12 that causes, or the individual or entity reasonably believes has caused or will cause,
13 identity theft or other fraud to any resident of Guam. Except as provided in paragraph 4
14 or in order to take any measures necessary to determine the scope of the breach and to
15 restore the reasonable integrity of the system, the disclosure shall be made without
16 unreasonable delay.
17

18 2. **Encrypted information.**--An individual or entity must disclose the breach of the
19 security of the system if encrypted information is accessed and acquired in an
20 unencrypted form, or if the security breach involves a person with access to the
21 encryption key and the individual or entity reasonably believes that such breach has
22 caused or will cause identity theft or other fraud to any resident of Guam.
23

24 3. An individual or entity that maintains computerized data that includes personal
25 information that the individual or entity does not own or license shall notify the owner
26 or licensee of the information of any breach of the security of the system as soon as

1 practicable following discovery, if the personal information was or is the entity
2 reasonably believes was accessed and acquired by an unauthorized person.

3
4 4. Notice required by this Section may be delayed if a law enforcement agency
5 determines and advises the individual or entity that the notice will impede a criminal or
6 civil investigation, or homeland or national security. Notice required by this Section
7 must be made without unreasonable delay after the law enforcement agency determines
8 that notification will no longer impede the investigation or jeopardize national or
9 homeland security.

10
11 **§48103. Procedures Deemed in Compliance with Security Breach Requirements.**

12 1. Information privacy or security policy.--An entity that maintains its own
13 notification procedures as part of an information privacy or security policy for
14 the treatment of personal information and that are consistent with the timing
15 requirements of this Chapter shall be deemed to be in compliance with the
16 notification requirements of this Chapter if it notifies residents of Guam in
17 accordance with its procedures in the event of a breach of security of the system.

18
19 2. Compliance with Federal requirements.

20
21 a. A financial institution that complies with the notification requirements
22 prescribed by the Federal Interagency Guidance on Response Programs for
23 Unauthorized Access to Customer Information and Customer Notice is
24 deemed to be in compliance with this Chapter.

25
26 b. An entity that complies with the notification requirements or procedures
27 pursuant to the rules, regulation, procedures, or guidelines established by

1 the entity's primary or functional Federal regulator shall be in compliance
2 with this Chapter.

3
4 **§48104. Violations**

5 1. A violation of this Chapter that results in injury or loss to residents of Guam
6 may be enforced by the Office of the Attorney General as an unfair trade practice
7 pursuant to 5GCA: Chapter 32.

8
9 2. Except as provided by §48103 of this Chapter, the Office of the Attorney
10 General shall have exclusive authority to bring action and may obtain either
11 actual damages for a violation of this Chapter or a civil penalty not to exceed
12 One Hundred Fifty Thousand Dollars (\$150,000) per breach of the security of the
13 system or series of breaches of a similar nature that are discovered in a single
14 investigation.

15
16 3. A violation of this Chapter by a Guam-chartered or licensed financial
17 institution shall be enforceable exclusively by the financial institution's primary
18 regulatory entity within the Department of Revenue and Taxation (such as the
19 Insurance and Banking Commissioner).

20
21 **§48105. Applicability**

22 This Chapter shall apply to the discovery or notification of a breach of the security of
23 the system that occurs on or after the effective date of this section.

24
25 **§48106. Effective Date** This Chapter shall take effect in One Hundred Twenty (120)
26 days after the date of enactment.

1 **§48107. Preemption.** This Chapter deals with subject matter that is of Islandwide
2 concern, and it is the intent of the Legislature that this Article shall supersede and
3 preempt all rules and regulations regarding the matters expressly set forth in this
4 Chapter.