1   L.D. 158

2   Date: (Filing No. H-   )

3   **INSURANCE AND FINANCIAL SERVICES**

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5   **STATE OF MAINE**

6   **HOUSE OF REPRESENTATIVES**

7   **126TH LEGISLATURE**

8   **FIRST REGULAR SESSION**

9   COMMITTEE AMENDMENT " " to H.P. 133, L.D. 158, Bill, "An Act To
10   Amend the Notice of Risk to Personal Data Act To Further Protect Consumers"

11   Amend the bill by striking out everything after the enacting clause and before the
12   summary and inserting the following:

13   '**Sec. 1.   10 MRSA §1347, sub-§1,** as amended by PL 2009, c. 161, §1 and
14   affected by §5, is further amended to read:

15   **1. Breach of the security of the system.** "Breach of the security of the system" or
16   "security breach" means unauthorized acquisition, release or use of an individual's
17   computerized data or lost, misplaced or unaccounted for computerized data that includes
18   personal information that compromises the security, confidentiality or integrity of
19   personal information of the individual maintained by a person. Good faith acquisition,
20   release or use of personal information by an employee or agent of a person on behalf of
21   the person is not a breach of the security of the system if the personal information is not
22   used for or subject to further unauthorized disclosure to another person.

23   **Sec. 2. 10 MRSA §1348, sub-§1,** as repealed and replaced by PL 2005, c. 583, §6
24   and affected by §14, is amended to read:

25   **1. Notification to residents.** The following provisions apply to notification to
26   residents by information brokers and other persons.

27   A. If an information broker that maintains computerized data that includes personal
28   information becomes aware of a breach of the security of the system, the information
29   broker shall conduct in good faith a reasonable and prompt investigation to determine
30   the likelihood that personal information has been or will may be misused and shall
31   give notice of a breach of the security of the system following discovery or
32   notification of the security breach to a resident of this State whose personal
33   information has been, or is reasonably believed to have been, acquired by an
34   unauthorized person if misuse of the personal information has occurred or if it is
35   reasonably possible that misuse may occur.

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1   B. If any other person who maintains computerized data that includes personal
2   information becomes aware of a breach of the security of the system, the person shall
3   conduct in good faith a reasonable and prompt investigation to determine the
4   likelihood that personal information has been or ~~will~~ may be misused and shall give
5   notice of a breach of the security of the system following discovery or notification of
6   the security breach to a resident of this State if misuse of the personal information has
7   occurred or if it is reasonably possible that misuse ~~will~~ may occur.

8   The notices required under paragraphs A and B must be made as expediently as possible
9   and without unreasonable delay, consistent with the legitimate needs of law enforcement
10 pursuant to subsection 3 or with measures necessary to determine the scope of the
11 security breach and restore the reasonable integrity, security and confidentiality of the
12 data in the system. Notice must be provided no later than 60 days after the discovery of
13 the breach of the security of the system, except that, if lost, misplaced or unaccounted for
14 computerized data is accounted for within 60 days of discovery of the breach of the
15 security of the system, notice is not required.

16 **Sec. 3. 10 MRSA §1348, sub-§3,** as amended by PL 2009, c. 161, §3 and
17 affected by §5, is further amended to read:

18 **3. Delay of notification; criminal investigation by law enforcement.** If, after the
19 completion of an investigation required by subsection 1, ~~notification is required~~ a person
20 is required to provide notice under this section, a law enforcement agency may make a
21 written request to that person to delay the notification required by this section ~~may be~~
22 ~~delayed~~ for no longer than 7 business days ~~after a law enforcement agency determines~~ so
23 that the notification will not compromise a criminal investigation.

24 **Sec. 4. 10 MRSA §1348, sub-§5,** as amended by PL 2005, c. 583, §9 and
25 affected by §14, is further amended to read:

26 **5. Notification to state regulators.** ~~When notice~~ Within 10 days after the discovery
27 of a breach of the security of the system ~~is required under subsection 1~~, the person shall
28 notify the appropriate state regulators within the Department of Professional and
29 Financial Regulation, or if the person is not regulated by the department, the Attorney
30 General.'

31 **SUMMARY**

32 This amendment is the minority report of the committee and replaces the bill. This
33 amendment does the following with respect to the Notice of Risk to Personal Data Act.

34 1. It clarifies the definition of "breach of the security of the system" to include lost,
35 misplaced or unaccounted for computerized data that includes personal information and
36 requires notice to be provided to residents affected by a breach within 60 days unless the
37 computerized data becomes accounted for prior to the 60-day deadline.

38 2. It requires that notice of a breach must be provided to state regulators no later than
39 10 days after discovery of the breach.

40 3. It clarifies that a notice to residents affected by a breach may be delayed only
41 pursuant to a written request from a law enforcement agency.

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1   4. It does not include the provision in the bill increasing the penalties for violations.

2   **FISCAL NOTE REQUIRED**

3   **(See attached)**

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