

(H. B. 2288)

**(No. 187)**

(Approved September 1, 2006)

**AN ACT**

To provide as public policy that every private entity which renders services to the Government of Puerto Rico and its agencies, instrumentalities, or subdivisions or to public employees; or that makes quotations or bids for auctions or contracting with the Government of Puerto Rico; or that benefits from public funds donations or transfers for its operation, shall adopt norms regarding the use of the Social Security number as identity verification for the protection of its confidentiality; to provide requirements, restrictions and authorized uses; define a term for the implementation of the public policy and on claims thereunder.

**STATEMENT OF MOTIVES**

Last year, over 9.3 million consumers within the jurisdiction of the United States were affected by the identity theft phenomenon. One insidious modality of this practice involves the configuration of schemes in which its participants, armed with partial information about a citizen, approach agencies or entities that gather information and under the guide of conducting legitimate transactions obtain additional information about the consumer.

One of the pieces of information which is most vulnerable to undue use is the social security number of the citizen. This piece of information is frequently used in ways that were unforeseen when said program was created. The origin and purpose of the Social Security number was to serve as a taxpayer's account number designed to be used for conducting transactions by the Social Security itself, for tax and transactions involving

labor benefits and was never designed to be a universal identification number nor a citizen's identity card. However, that number is frequently used for verifying the identity of a person, precisely because it allows for making reference to taxpayer or payroll lists.

Is the federal level, there are various laws that require or authorize the use of the Social security number for identification purposes in different government agencies. The Privacy Act regulates the use of the social security number as identification number. To these effects, said Act establishes that whenever a federal, state or local agency requires the social security number of a person for any government purpose, said agency shall inform the personal of the statute or legal authority from which said power originates, whether said disclosure is mandatory or voluntary, the purposes for which the number shall be used, and the consequences for refusing to disclose the same. Federal laws authorize certain specific uses for the social security number by local and state agencies and entities. To allow requiring the social security number for the purpose of verifying the identity of a person, does not however mean that there is an obligation or the freedom to use the same as public identification employee, case, or registration number. Due to the practice engaged in by some private enterprises of requiring the number as identification source, the Social Security Administration has stated that these enterprises may so request it, however, it is optional for the person to disclose it.

The Social Security Administration, the Federal Trade Commission, and other government and industrial entities recommend that those companies or agencies that use or gather social security numbers refrain from displaying said number so as to be in casual view of the public and to keep the same as confidential data for internal use as reference, taking

information security measures at all times; and that they consider providing their clientele with identification numbers different from the Social Security Number if no fiscal or tax transactions are involved.

Today, the use of the Social Security Number as identification method is common has spread. Therefore, it is important to establish mechanisms to guarantee its proper use. The excessive use of the Social Security number as universal identification number not only exposes the citizen to identity theft, but it also has the potential to devalue the use thereof for legitimate purposes. In order to address this reality, it is necessary to establish a public policy to establish that the purposes to be given to the Social Security Number in cases under the jurisdiction of Puerto Rico do not violate the safety of this information.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- It is the public policy of the Government of Puerto Rico that every private enterprise that provides services to its constitutional branches, state or municipal agencies, dependencies, and instrumentalities and public corporations, as well as those that provide or shall render or provide services to Public Employees through payroll deduction contracts, those that make quotations or bids for auctions or contracting with the private sector, and those that benefit from donations or transfer of public funds for their operations, shall establish parameters for the protection of the confidentiality of the Social Security number of the persons from whom said information is obtained.

Section 2.- The private entities referred to in Section 1 of this Act, as an eligibility requirement for contracting with the public sector or allocating public funds, shall guarantee to any citizen or public employee that his/her Social Security number shall not be circulated, displayed or revealed on any

identification card, document of general circulation, or article that is accessible or visible to any person within or outside the entity, which does not need to know this data, nor shall the same be used as case, account, or claim number in public documents.

Section 3.- The entities referred to in Section 1 of this Act may continue to obtain the social security number of persons in order to expedite identity verification, to standardize the internal procedures of information exchange, and to such purposes allowed by law such as, without it being construed as a limitation, credit transactions and investigations, state and municipal tax transactions and investigations, human resources administration, compliance with Child Support laws, and compliance with judicial orders or criminal investigations, among others, but always guaranteeing that the services offered to persons who for any reason do not have a social security number or who object to the use thereof shall not be interrupted, unless a special law so expressly provides, or that any federal law or regulation imposes or allows its obligatory use.

Section 4.- The entities referred to in Section 1 of this Act that, at present, carry out contracting or render services, make bids, quotations or request fund appropriations or donations referred to in said Article shall have a term of one (1) year after the approval of this Act to certify that the public entity conducting the disbursement of funds is in compliance with its provisions, or render a progress report and work plan certifying that said entity shall comply with the same within the following fiscal year.

Section 5.- The entities referred to in Section 1 of this Act shall defray from their own finances any claim for damages by a citizen for their noncompliance with the provisions of this Act.

Section 6.- If any provision, word, sentence, or section of this Act were to be impugned for any reason by a court and declared unconstitutional or null, such action shall not affect, impair or invalidate the remaining provisions of this Act.

Section 7.- This Act shall take effect immediately after its approval, subject to the provisions about the deadlines for the implementation process of the requirements included in Section 4.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 187 (H.B. 2288) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to provide as public policy that every private entity which renders services to the Government of Puerto Rico and its agencies, instrumentalities, or subdivisions or to public employees; or that makes quotations or bids for auctions or contracting with the Government of Puerto Rico; or that benefits from public funds donations or transfers for its operation, shall adopt norms regarding the use of the Social Security number as identity verification for the protection of its confidentiality; etc.,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 17<sup>th</sup> of September of 2007.

Francisco J. Domenech  
Director