

New Privacy Laws Expose CPAs to Severe Penalties

by Mike Seay and Jimmy Martens with Martens & Associates

In May of 2005, Governor Perry signed two new bills that impose significant penalties on CPAs that aren't careful with clients' personal information. The first is [House Bill No.1130](#). This bill makes it a violation to require another individual to disclose their Social Security number unless a "privacy policy" is in place and followed. The penalty is up to \$500 for each month a violation occurs. The second is [House Bill No. 698](#). It imposes a penalty of up to \$500 for each record a business disposes of without first making personal information unreadable. Both laws became effective September 1, 2005, almost one year ago.

Protect Those SSNs and Let Your Clients Know. CPAs must ask their clients for Social Security numbers. They need them for tax returns and Powers of Attorney. Although it appears that the new Texas law was meant to protect consumers from businesses that may ask for improper purposes, accountants appear to fall within the statute's broadly cast net.

Therefore, any accountant who obtains Social Security numbers from their clients should consider adopting a privacy policy that is in compliance with the new law. The law requires a privacy policy to disclose five things:

1. How personal information is collected
2. How and when personal information is used
3. How the personal information is protected
4. Who has access to the personal information
5. How the personal information is disposed

The business must not only adopt a privacy policy that complies with the statute, but also must make the policy available to clients that provide their Social Security numbers. The business must also be in compliance with its own policy. Otherwise, it becomes liable for the \$500 a month fee.

It Gets Worse. Another recently passed law requires businesses to shred customers' personal identifying information before disposing of it. "Personal identifying information" includes Social Security numbers, date of birth, mother's maiden name, biometric data (fingerprints, voice prints, and retina images), unique electronic identification numbers, credit card and financial institution account information, and "any other financial information." If a business record contains any of this information along with an individual's first name or initial and last name, then the personal information must be made unreadable before the record is disposed of. A business that improperly disposes of records is liable for a civil penalty of up to **\$500 per record**, plus reasonable attorney's fees.

To see a sample privacy policy that's intended to meet these requirements, see www.textaxlaw.com. For questions regarding these new laws, please contact Mike Seay at mseay@textaxlaw.com or Jimmy Martens at jmartens@textaxlaw.com.

About the Authors



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Special Note: Martens & Associates maintains a website which provides Texas tax information, links to all of the websites referenced in this manual and links to all available state revenue officers' websites. The site is located at:

<http://www.textaxlaw.com>

The service is free.