

*For Guidance Purposes*

**SUMMARY OF MANAGER'S AMENDMENT TO S. 1151**

**September 15, 2011**

- Amends Section 2 to strike the findings related to the data broker title, which is no longer in the bill. Also adds references to national security to findings 2 and 3 and makes other technical changes.
- Amends Section 3 to strike the definition of “personal electronic record”.
- Adopts Grassley Amendment - HEN11631 (circulated September 8) - and strikes language authorizing the FTC to modify the definition for sensitive personally identifiable information through rulemaking.
- Makes technical changes to Section 202(d) regarding the data security program requirements and relationship to service providers.
- Amends Section 203 to add limitation on liability language requested by Senator Grassley, to address concerns about excessive civil penalties for enforcement actions brought by the Federal Trade Commission and State Attorneys General.
- Amends the State Attorney General Enforcement provisions in Section 203 to clarify that if a Federal civil or criminal action has been filed, a State cannot bring another action for the same violation.
- Amends Section 212 to clarify that the Federal Trade Commission receives the results of the risk assessment after it has been completed. Also strikes language specifying certain technical requirements for the risk assessment, to address privacy concerns.
- Amends Section 217 to clarify that civil penalties are calculated per security breach, per day. Adds limitation on liability language requested by Senator Grassley to address concerns about excessive civil penalties for enforcement actions brought by the Attorney General and the Federal Trade Commission.

- Amends Section 218 to clarify that civil penalties are calculated per security breach, per day. Adds limitation on liability language requested by Senator Grassley, to address concerns about excessive civil penalties for enforcement actions brought by State Attorneys General. Also amends the State Attorney General Enforcement provisions in Section 218 to clarify that if a Federal civil or criminal action has been filed, a State cannot bring another action for the same violation.
- Clarifies that the preemption provision in Section 219 does not preempt GLB or HIPAA. Clarifies that the preemption of state data breach laws applies to the entities subject to the bill.
- Makes other technical changes to Title II.