



March 15, 2022

UTAH PASSES CONSUMER PRIVACY ACT

On March 4, 2022, the Utah legislature joined several other states in passing a consumer privacy law, the Utah Consumer Privacy Act ("Act"). Once signed by the governor, as is expected, the Act will become effective December 31, 2023. The Act creates a right for consumers to access and delete personal data maintained by certain businesses and to opt out of the collection and use of personal data for certain purposes. The Act also requires businesses that control and process consumer's personal data to provide information regarding how a consumer's data is used and to accept and comply with a consumer's request to exercise rights under the Act.

The Act does not create a private right of action for consumers, only the Utah Attorney General may enforce the Act. The Act applies to controllers and processors. A controller is defined as a person doing business in Utah who determines the purposes for which and the means by which personal data is processed, regardless of whether the person makes the determination alone or with others. Processor is defined as a person who processes personal data on behalf of a controller.

The Act applies to any controller or processor who: (i)(a) conducts business in Utah; or (b) produces a product or service that is targeted to consumers who are residents of Utah; (ii) has annual revenue of \$25,000,000 or more; and (iii) satisfies one or more of the following thresholds: (a) during a calendar year, controls or processes personal data of 100,000 or more consumers; or (b) derives over 50% of the entity's gross revenue from the sale of personal data and controls or processes personal data of 25,000 or more consumers.

The Act's rights and protections apply to a consumer, defined as an individual who is a resident of Utah acting in an individual or household context. Consumer does not include an individual acting in an employment or commercial context.

The Act exempts a financial institution or an affiliate of a financial institution governed by, or personal data collected, processed, sold or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act and related regulations ("GLBA"). The Act also does not apply to activities regulated by the Fair Credit Reporting Act as set forth in the Act.

The Utah consumer privacy law is similar to the Virginia and

Colorado consumer privacy laws as the Utah consumer privacy law expressly exempts a financial institution or an affiliate of a financial institution or data subject to the "GLBA." This exemption differs from the California Consumer Privacy Act exemption that only exempts data subject to the GLBA.

Numerous other states have similar consumer privacy laws pending in their legislatures. We will continue to monitor state consumer privacy laws and provide updates on bills enacted. Please let us know if you have any questions or need assistance with complying with state consumer data privacy law requirements. ☐

✧ *Elizabeth Anstaett and Nathan Copeland*

LOOKING FOR A MARKETING AND PRIVACY COMPLIANCE

RESOURCE? We publish an easy-to-use reference, our **MARKETING AND PRIVACY DIGEST**, which compiles the state laws governing financial privacy, fair credit reporting, telemarketing/automatic dialing and announcing devices, telephone monitoring and recording, electronic signatures and restrictions on the use of social security numbers by financial service providers. Creditors, marketers and servicers should find this resource invaluable to marketing and privacy program development and regulatory compliance. **Contact us for details.**

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