



The New Massachusetts Data Security Law: Are You in Compliance?

On March 1, 2010, the new Massachusetts data security law went into effect. This innovative regulation—201 CMR 17.00—requires businesses to adopt security plans with respect to any personal information about a Massachusetts resident (prospect, customer, or employee) they may have on file, whether paper or electronic. Due to the significant amounts of personal information real estate professionals acquire during the normal course of business, it is of the utmost importance that you are aware of the law and take measures to comply immediately—if you haven't already.

The [Standards for the Protection of Personal Information of Residents of the Commonwealth](#) were created with the intention of protecting Massachusetts's consumers from identity theft. Specifically, it “establishes minimum standards to be met in connection with the safeguarding of personal information,” which includes an individual's first name/initial and last name together with their:

- Social Security number;
- Driver's license number or state-issued identification card;
- Financial account number; or
- Credit or debit card number.

More than just a notification of when a breach has occurred, the new law sets forth two duties and standards for proactively protecting personal information: 1) a written plan for an information security program; and 2) a computer security system.

Written Information Security Plan

Although the length and complexity of your final document will vary based on the particular characteristics of your business and the data in your possession, every business with access to personal information must have a security program *in writing*. Even if you have limited private data in your care, it is important to note that the regulation mandates specific minimum requirements for inclusion, such as regular employee training on security precautions, restricted access to physical records, and regular monitoring of the program to ensure it is working and to help identify any necessary upgrades.

Computer System Security Requirements

If you electronically store or transmit any personal information, you must also implement—and include within your written program document—a security system for all your computers and networks. Among the minimum required elements listed are secure user authentication protocols, encryption of all transmitted and electronically stored information, and reasonably up-to-date versions of system security software and firewall protection. However, because some small businesses may not handle much private data, all of these standards provide for the technical feasibility of such applications, meaning if “there is a reasonable means through technology to accomplish the required results, then that reasonable means must be met.”

As a real estate professional, it is not only necessary to follow this law going forward, but it's also advisable that you review any closed files to identify any personal information that may need to be included within your new system. This could include moving hard copy files to a locked room or

transferring electronic data to a new encrypted server. By taking the initiative now, you can better help protect against any claims arising out of a security breach that could occur in the future.

If you have not yet taken steps to align your firm with this new regulation, it is vital you act now to bring your firm into compliance. If you'd like to learn more about the law, we encourage you to read the [Frequently Asked Questions Regarding 201 CMR 17.00](#) posted by the Massachusetts Office of Consumer Affairs and Business Regulation. You may also want to contact your local real estate board or the Massachusetts Association of REALTORS® for additional information.

If you're interesting in learning about how you can help protect against claims arising out of network-related risks, please call your dedicated Pearl Real Estate E&O & Risk Management Consultant, Debbie Bindeman, at 1.800.455.1154, or email debbie.bindeman@pearlinsurance.com.

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