

MEMORANDUM — August 4, 2004

## Illinois Consumer Fraud and Deceptive Business Practices Act / Recent Developments

This memo summarizes the recent amendments to the Illinois Consumer Fraud and Deceptive Business Practices Act (the "Act"). The amendments, codified at 815 ILCS 505/2QQ, will go into effect on July 1, 2006, with one exception noted below. In an effort to reduce the risk of identity theft, these amendments restrict a person, entity or other organization (collectively "Organizations") from using an individual's Social Security number in certain circumstances. The amendments restricting the use of Social Security numbers which pertain to business organizations are outlined below.<sup>1</sup>

If you have any questions concerning the information in this memo, please don't hesitate to contact us.

### NEW RESTRICTIONS

- (1.) An Organization may not intentionally communicate or otherwise make available to the general public an individual's Social Security number.
- (2.) An Organization may not print an individual's Social Security number on any card required for the individual to access products or services offered by the Organization. Effective January 1, 2005, insurance cards will be required to have a unique identification number of the card holder printed on them and the Act as amended prohibits printing the holder's Social Security number on the card from and after January 1, 2005.
- (3.) An Organization may not require an individual to transmit his Social Security number over the Internet, unless the Internet connection is secure or the Social Security number is encrypted.
- (4.) An Organization may not require an individual to use his Social Security number to access an Internet Web site, unless a password or unique personal identification number or other unique authentication device is also required.
- (5.) Except as described below, an Organization may not print an individual's Social Security number on any materials that are mailed to that individual unless required to do so by state or federal law.

However, Social Security numbers may be included in applications and forms sent by mail, such as (i) application or enrollment documents, (ii) documents to establish, amend or terminate an account, contract or policy, or (iii) documents to confirm the accuracy of the Social Security number. In cases in which a Social Security number is permitted under this section to be included in mailed materials, the Social Security number must be visible only after the envelope is opened (*i.e.*, the Social Security number may not be printed on a postcard, on the outside of an envelope or so that it can be seen through the envelope window).

- (6.) An Organization may not encode or embed a Social Security number in or on a card or document (*e.g.* using a bar code, chip, magnetic strip, etc.) in lieu of removing the Social Security number as required by these amendments.

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<sup>1</sup> In related legislation passed this year in response to the growing problem of identity theft, the Illinois General Assembly created a Social Security Number Protection Task Force to examine whether further protective steps must be implemented in connection with governmental use of Social Security numbers.

## For Further Information

If you would like to learn more about the recent amendments to the Illinois Consumer Fraud and Deceptive Business Practices Act, please contact the following attorneys or another member of the Corporate and Securities Group.

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