

**Definitions and Context for Terms Relating to “Personal Information” in 9 V.S.A. Chapters 62–63  
As proposed to be amended in 18-0397**

<p align="center"><b>Type of Information</b></p> <p align="center">Definition or Term</p>	<p><b>“Personal information”</b> 9 V.S.A. § 2430(8)</p> <p align="center">(8) “Personal information” means one or more of the following data elements about a consumer:</p> <p align="center">(A) name; (B) address; (C) name or address of a member of his or her immediate family or household; (D) a personal identifier, including a Social Security number, other government-issued identification number, or biometric record; (E) an indirect identifier, including date of birth, place of birth, or mother’s maiden name; or (F) other information that, alone or in combination, is linked or linkable to the consumer that would allow a reasonable person to identify the consumer with reasonable certainty.</p>	<p><b>“Personally identifiable information”</b> 9 V.S.A. § 2430(7)</p> <p align="center">(7)(A) “Personally identifiable information” means an individual’s a consumer’s first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:</p> <p align="center">(i) Social Security number; (ii) motor vehicle operator’s license number or nondriver identification card number; (iii) financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords; (iv) account passwords or personal identification numbers or other access codes for a financial account.</p> <p align="center">(B) “Personally identifiable information” does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.</p>	<p><b>SSN Protection Act Info</b></p> <p>9 V.S.A. § 2440(b)-(e) - Social Security Number</p> <p>9 V.S.A. § 2440 (f) - “Social Security number, employer taxpayer identification number, driver’s license number, State identification number, passport number, checking account number, savings account number, credit card or debit card number, or personal identification number (PIN) code or passwords contained in [an] official record.”</p> <p>→ generically referred to as “<del>personal</del> information”</p>	<p><b>“Confidential Information”</b> 9 V.S.A. § 2445(a)(3)</p> <p align="center">(3) “<del>Personal Confidential</del> Information” means the following information that identifies, relates to, describes, or is capable of being associated with a particular individual: his or her signature, Social Security number, physical characteristics or description, passport number, driver’s license or State identification card number, insurance policy number, bank account number, credit card number, debit card number, or any other financial information.</p> <p>- Statute applies to “confidential information” that is stored in a record:</p> <p align="center">(4)(A) “Record” means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted.</p> <p align="center">(B) “Record” does not include publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed, such as name, address, or telephone number.</p>	<p><b>Federal point of reference: “Nonpublic Personal Information”</b></p> <p>15 U.S.C. § 6809(4) – federal Gramm Leach Bliley Act</p> <p>(4) Nonpublic personal information</p> <p align="center">(A) The term “nonpublic personal information” means personally identifiable financial information—</p> <p align="center">(i) provided by a consumer to a financial institution;</p> <p align="center">(ii) resulting from any transaction with the consumer or any service performed for the consumer; or</p> <p align="center">(iii) otherwise obtained by the financial institution.</p> <p align="center">(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 6804 of this title.</p> <p align="center">(C) Notwithstanding subparagraph (B), such term—</p> <p align="center">(i) shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any nonpublic personal information other than publicly available information; but</p> <p align="center">(ii) shall not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any nonpublic personal information.</p>	<p><b>EU point of reference: “Personal Data”</b></p> <p>‘Personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;</p>

<p style="text-align: center;"><b>Actor</b></p>	<p><b>“Data broker”</b> 9 V.S.A. § 2430(3)</p> <p>(3) “Data broker” means a business that:</p> <p>(A) <u>assembles, collects, stores, or maintains personal information concerning a consumer who does not otherwise have a direct relationship with the data broker, including a direct relationship as a customer, website or web application user, employee, or charitable donor; and</u></p> <p>(B) <u>sells the personal information to one or more third parties.</u></p>	<p><b>“Data collector”</b> 9 V.S.A. § 2430(5)</p> <p>(5) “Data collector” <del>may include the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that,</del> means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with <del>nonpublic personal information personally identifiable information,</del> and <u>includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.</u></p>	<p><b>“Business”</b> § 2440(b)-(c)</p> <p>The <b>State</b> and any State agency, political subdivision of the State, and their agents or employees § 2440 (d)-(e)</p> <p><b>Town clerk or clerk of court</b> with custody of an official record placed on a town’s or court’s Internet website available to the general public or an Internet website available to the general public § 2440(f)</p>	<p><b>“Business”</b> § 2445(b)</p> <p><b>“an entity that is in the business of disposing of personal financial information</b> that conducts business in Vermont or disposes of <del>personal confidential</del> information of residents of Vermont” § 2445(c)</p>	<p><b>“Financial institution”</b> as defined in GLB; includes:</p> <p>banking institutions and also other businesses that are significantly engaged in providing financial products or services—check-cashing businesses; payday lenders; mortgage brokers; nonbank lenders; personal property or real estate appraisers; professional tax preparers courier services; retailers that extend credit; automobile dealers that lease vehicles for more than 90 days; and any other business that is significantly engaged in a financial activity described in section 4(k) of the Bank</p> <p>Also includes persons with whom a financial institution shares nonpublic personal information, including consumer reporting agencies.</p>	<p><b>“Controllers” and “processors” of personal data of EU consumers</b></p> <p>(applies not only to EU-domiciliaries but also to US-based and other foreign businesses that collect or disseminate personal data of EU consumers)</p>
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<p style="text-align: center;"><b>Legal Context</b></p>	<p><b>“Data broker security breach” - defined</b> 9 V.S.A. § 2430(4)</p> <p><b>Acquisition of Personal Information; Prohibitions</b> 9 V.S.A. § 2433 - prohibited acquisition for stalking, fraud, discrimination, etc. - sale of personal information of consumers age 13-18</p> <p><b>Data broker annual registration with Secretary of State</b> 9 V.S.A. § 2446 - annual registration and required statements about opt outs</p> <p><b>Data broker duty to protect personal information; standards; technical requirements</b> 9 V.S.A. § 2447 - duty to implement information security program</p> <p><b>Data broker security breach notice act</b> 9 V.S.A. § 2448 - data broker duty to notify of breach of personal information</p>	<p><b>“Security breach” - defined</b> 9 V.S.A. § 2430(11)</p> <p><b>Security Breach Notice Act</b> 9 V.S.A. chapter 62, subchapter 2, § 2435 - data collector duty to notify of breach of personally identifiable information</p>	<p><b>Social Security Number Protection Act</b> 9 V.S.A. chapter 62, subchapter 2, § 2440(a)-(e) - limits the authority of a business or the State (etc.) to collect or disseminate an individual’s SSN</p> <p>§ 2440(f) - allows a person to request a town clerk or clerk of court to remove or redact their “personal information,” as specified above</p> <p><i>See also</i> 9 V.S.A. § 2480m: “Prior to posting or requiring the posting of a document in a place of general public circulation, an agency, board, department, commission, committee, branch, instrumentality, or authority of the State, or an agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the State shall take all reasonable steps to redact any Social Security numbers from the document. Files and records made available to the public in accordance with and pursuant to 24 V.S.A. § 1165 are not considered posted in a place of general public circulation for the purposes of this section.”</p>	<p><b>Document Safe Destruction Act</b> 9 V.S.A. chapter 62, subchapter 4, § 2445(b) - business duty to destroy a customer’s records within its custody or control containing <u>personal confidential</u> information and no longer to be retained by the business...</p> <p>§ 2445(c) - entity in the business of disposal duty to dispose of records containing <u>personal confidential</u> information ... to protect against unauthorized access or use of <u>personal confidential</u> information during or after the collection and transportation and disposing of such information.</p>	<p><b>Financial Services Modernization Act of 1999, Gramm-Leach-Bliley (GLB) - 15 U.S. Code sections 6801-6809; 15 U.S.C. § 6821-6827</b></p> <p>The first part of this law: (1) directs federal regulatory agencies to adopt rules governing the protection of nonpublic personal information by financial institutions; (2) prohibits financial institutions from disclosing such information unless they issue a privacy notice that explain their information sharing practices and give customers the opportunity to opt-out of some sharing of personally identifiable financial information with outside companies; and (3) requires financial institutions to provide their customers with notice of their institutional privacy policies, at the time of establishing a customer relationship and not less than annually thereafter. The second part of the law creates a federal crime for the fraudulent access to financial information. <i>See also:</i> Privacy of Consumer Financial Information, 12 C.F.R. Part 1016 (Regulation P) Financial Privacy Rules, 16 C.F.R. Part 313 Safeguards Rule, 16 C.F.R. part 314</p>	<p><b>European Union’s “General Data Protection Regulation (GDPR)”</b></p> <p>Comprehensive EU regime for protecting personal data</p>
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