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DATE: February 26, 2026

To: Hon. Rep. Marcotte, Chair
House Committee on Commerce and Economic Development

From: David P. Hall Esq., Director, Business Services Division

Re: H.211; Draft 4.1 – “An act relating to data brokers and personal information”

Thank you for the opportunity to review and provide testimony on the draft committee amendment.

The Office of the Secretary of State offers the following:

- 1. Security and maintenance concern with embedding a live internet link versus providing a web address:**
 - On page 29, line 3, subdivision 2446(a)(4)(I) - "a link to a page on the data broker's website" → "the URL of a page on the data broker's website"
- 2. Clarify intent concerning imposition and collection of fees for failure to register:**
 - On page 30, lines 6-13, subdivisions 2446(b)(1)(A)-(C):
 - SoS would collect current and past registration fees;
 - SoS *could* collect fine for late payment (?), but the DB would have to report the date it was supposed to register and the system would have to calculate the per-day-fee.
 - SoS would not manage (C), costs for investigation and administration.
- 3. Amendment of Registration Information; Process and duties concerning omitted Information:**
 - On page 30, lines 16-17, 2446(b)(2) - "after receiving notification of the omission from the Secretary of State"

- This fails to reflect the reality that our system would require a response for every mandatory data point - if the DB didn't provide a response, it wouldn't be able to complete the registration.
- The need to redress omitted information would therefore only arise:
 - (1) if SoS performs a substantive review of the DB's submission and determines it was insufficient for some reason → SoS not have the substantive expertise or operational capacity to perform this task.
 - (2) the DB later realizes that what they submitted was incorrect or insufficient because they omitted information; or
 - (3) in the course of enforcement, the AG discovers that information was omitted.
- SoS recommends that this language be modified so that the duty to provide sufficient information, and the duty to later supply omitted information, is self-executing and does not require SoS to discover the omission or provide notice of the insufficiency.
 - “(2) A data broker that fails to provide all registration information required in subdivision (a)(4) of this section shall file an amendment that includes any omitted information not later than 30 days after **discovering or** receiving notification of the omission **from the Secretary of State** and is liable to the State for a civil penalty of \$1,000.00 per day for each day thereafter that the data broker does not file an amendment providing the omitted information.
- SoS recommends that a DB have the express duty/ability to amend its registration information if it changes, and specify a fee for any amendment.

4. Collection of Civil Penalties and Clarifying “Materially incorrect information”

- On pages 30-31, 2446(b)(3) –
 - 2446(b)(3) – “(B) correct the materially incorrect information not later than 30 days after **discovering or receiving** notification of the incorrect information, and, if it fails to correct the information, the data broker shall be liable for an additional civil penalty of \$1,000.00 per day for each day the data broker fails to correct the information.” (to be consistent with (2) above, if adopted)
 - Who determines, enforces, and collects civil penalties for omitted information and materially incorrect information? (Presumably AGO per 2446(e), but need to confirm).

5. Clarify expectations for website information and SoS procedures.

- On page 35, 2446(d) - SoS can expand the information available on the SoS main site to address DB provisions as contemplated here, but:
 - Subdivision (1) (spreadsheet)-
 - The registration info and the database download would be on the portal site and would require a user to create an account.

- An excel spreadsheet is the right mechanism for contact info, but not for the responses to the many questions about what the DB collects, etc. Those would be checkboxes and drop-down menus that would populate on the DB business information page and ideally would be searchable in the system.
- Subdivision (2) – Live link vs. URL
 - "a link to a page on each registered data broker's website" → "the URL of a page on each registered data broker's website"
- Subdivision (3) – Form letter/email
 - SoS strongly prefers not to be involved in the consumer opt-out process, particularly at the stage where a data broker has failed to honor a consumer's request.

6. Study; Development time and cost –

- Will funding be made available at some point for the delete mechanism study?
- SoS does not have a CR proposal from our IT vendor at this time, but a reasonable estimate for these system changes based on recent proposals is approximately 4-6 months and \$50,000-\$60,000+ (cost for vendor only).
 - Effective date should account for this timeline (1/1/27?)