

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a communication from the County Executive urging the adoption of a Local Law adding Article XXV to Chapter 863 of the Laws of Westchester County with respect to requiring all commercial businesses in Westchester County utilizing electronic means of maintaining personal information to have a secure network to protect the public from potential identity theft and other potential threats such as computer viruses and data corruption.

Your Committee notes that ever-evolving wireless communication technology has spawned various concerns with respect to the security of personal information such as social security numbers and credit card and bank accounts. One of the fastest growing areas in this regard is “Wi-Fi” which offers wireless Internet access to local area networks.

Your Committee also notes that while Wi-Fi has traditionally been used in airports and hotels to assist business travelers, the trend has caught on and there are a growing number of commercial businesses using or offering Wi-Fi communication, colloquially known as “Internet cafes.”

Your Committee is aware that the creation of these “hotspots” wherein Wi-Fi is provided offers an increased opportunity for identity thieves to prey on Internet users who might otherwise believe their personal information is secure. A recent New York

Times article reported that 14 percent of Wi-Fi users have logged onto neighbors' networks in the past year and 30 percent are worried about their neighbors' getting onto their networks.

Your Committee is further aware that it is not only the Wi-Fi user who is at risk of identity theft. Identity theft may also occur where the business entity offering Wi-Fi utilizes the same network to conduct their day-to-day business. This practice could place a customer, who has made a credit card purchase with the business at risk for identity theft, computer viruses and data corruption from persons with rudimentary computer skills absent the appropriate security measures.

Your Committee is further aware that any entity which collects personal information could be vulnerable to threats of identity theft even if they do not offer Internet access to the public. Recent industry reports have identified the threat of "drive-by hacking." Researchers with a laptop and free software from the Internet were able to pick up information from company wireless networks simply by driving around city streets. Small businesses are particularly vulnerable to this type of threat. For example, a local retail store maintains personal information from your credit card and unless that store has taken the appropriate minimum security measures, your personal information is at risk. These minimum security measures are often as simple as installing a network firewall, changing the system's default SSID (network name) or disabling SSID broadcasting, all of which can be achieved with minimal effort and at little or no additional cost to the system operator.

Your Committee is informed that while Wi-Fi communication offers opportunity for identity theft, so too does the use of traditional wired land area networks (LANs). Commercial entities that offer Internet connections through LANs expose themselves to electronic predators if such entities utilize the same LAN without appropriate security precautions.

Your Committee is also aware that while this Local Law is designed to help protect residents from certain cyber threats it does not provide a guarantee of such security. Therefore, the County will provide ongoing public education, through the distribution of pamphlets and postings on the County's website, outlining steps that residents should take to help protect themselves from the threat of identity theft through the use of computers and other electronic devices. The public education effort will track the latest technological advances in order to provide up-to-date and meaningful assistance.

As you know, your Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). The Commissioner of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed legislation does not constitute an action as defined in section 617.2(b) of 6 NYCRR Part 617. As such, your Committee is advised that no further environmental review is necessary.

Your Committee, in order to protect the residents of Westchester County and other users of wired and wireless networks from crimes such as identity theft and other consumer fraud, recommends adoption of this Local Law.

Dated: _____, 2006
White Plains, New York

COMMITTEE ON

A: bjm
March 2006

RESOLUTION NO. - 2006

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2006 entitled “A Local Law amending the Laws of Westchester County requiring all commercial businesses in Westchester County offering or utilizing public Internet access and maintaining personal information to have a secure network to protect the public from potential identity theft and other risks related to computer use.” The public hearing will be held at m. on the day of , 2006 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

A Local Law amending the Laws of Westchester County requiring all commercial businesses in Westchester County who offer public Internet access and/or maintain personal information and use a wireless network to have a secure network to protect the public from potential identity theft and other risks related to computer use.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Article XXV shall be added to Chapter 863 of the Laws of Westchester County to read as follows:

ARTICLE XXV. PUBLIC INTERNET PROTECTION ACT.

Sec. 863.1201. Definitions.

1. “Public Internet access” shall mean any commercial business that offers Internet access to the general public whether for a fee or free of charge.
2. “Commercial business” shall mean any entity physically located in Westchester County that: (a) for profit, offers goods or services for sale, (b) stores personal information electronically; and (c) has wireless networks.
3. “Personal information” shall mean information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted (translated into private code) or encrypted with an encryption key that has also been acquired:
 - (a) social security number;

(b) bank account number, credit card or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

4. "Minimum security measures" shall include, but not be limited to: (a) installing a network firewall; (b) changing the system's default SSID (network name); or (c) disabling SSID broadcasting.

5. "Wireless network" shall mean a connection with the Internet without needing to attach cables to one's computer.

6. "Network firewall" shall mean a hardware device, software program or a combination of the two that protects a computer network from unauthorized access.

Sec. 863.1202. Security of Personal Information.

1. Any commercial business that stores, utilizes or otherwise maintains personal information electronically shall be required to take minimum security measures as defined herein to secure and prevent unauthorized access to all such information.

2. Commercial businesses that additionally provide or offer public Internet access shall conspicuously post a sign in the area where such Internet access is located stating:

FOR YOUR OWN PROTECTION AND PRIVACY, YOU ARE ADVISED TO
INSTALL A FIREWALL OR OTHER COMPUTER SECURITY MEASURE
WHEN ACCESSING THE INTERNET. FOR INFORMATION ON INTERNET
SAFETY PLEASE VISIT www.westchestergov.com.

Such sign shall be designed, produced and distributed by the department of weights and measures at no cost and shall, at a minimum, be printed in 14 point bold type on a placard measuring 8.5 inches in height by 11 inches in width.

Sec. 863.1203. Public education effort.

The Westchester County Department of Weights and Measures, in conjunction with the Westchester County Department of Information Technology shall institute a public education program which shall inform and educate both the general public and the providers of public Internet access regarding the implications of this Local Law, including the need for network security measures in places of public accommodations. This public education program shall also include information to assist the general public in protecting themselves from the potential of identity theft through the use of wireless network connections regardless of where such connections originate. Such information shall also be made available through the official Westchester County government web site at www.westchestergov.com.

Sec. 863.1204. Enforcement and Penalties.

1. The provisions of this article shall be enforced by the Westchester County Department of Weights and Measures.
2. A first violation of any provision of this Article shall result in a warning by the Westchester County Department of Weights and Measures which shall state that the offender has thirty (30) days to address the violation. Failure to address the violation within the thirty day period shall constitute a second violation.

3. For a second violation of this Article, a civil penalty of two hundred and fifty hundred dollars (\$250.00) shall be imposed. For the third and succeeding violations, a civil penalty of five hundred dollars (\$500.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice of the charge against him or her and has had an opportunity to be heard.

Sec. 863.1205. Severability.

If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Section 2. This Local Law shall take effect one hundred and eighty (180) days following its enactment.