



25 January 2021

Representative Zack Fields, Co-Chair of House Labor & Commerce Committee
Representative Ivy Spohnholz, Co-Chair of House Labor & Commerce Committee
House Labor & Commerce Committee Members
House of Representatives
Alaska State Capitol
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Sent Via Email

RE: Committee Substitute For House Bill No. 159 (Consumer Data Privacy, 1-14-2022)

Dear Co-Chairs Fields and Spohnholz and Committee Members:

The American Council of Life Insurers (ACLI), American Property Casualty Insurance Association (APCIA) and National Association of Mutual Insurance Companies (NAMIC) appreciate the opportunity to share our industry insights and recommendations in regard to the House of Representatives' committee substitute to House Bill 159 (Consumer Data Privacy).

ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. APCIA and NAMIC are the largest property and casualty insurance trade associations in the country, and collectively represent a wide range of companies from small, single-state mutual companies to some of country's largest national insurers.

Overview

At HB159's first reading in the House Labor & Commerce Committee, the Attorney General's office explained the intent of the legislation was to protect Alaskans' right to privacy while balancing the Administration's core initiative to make Alaska "open for business." The central purpose of HB159 is to provide Alaskans with the ability to know what information companies are collecting and to provide some control over how that data is used. (See, April 23, 2021, House Labor & Commerce Committee Minutes). While recognizing the important rights the Legislature is hoping to protect, ACLI, APCIA, and NAMIC, on behalf of their members, would like to take this opportunity to point out the robust set of laws and regulations which already govern the use of personal information by insurers and the financial services industry generally.

In consideration of the longstanding guidelines already applicable to our industry, we would respectfully request that the insurance industry be excluded from the provisions outlined under HB159.

Background and Existing Regulation

The Gramm-Leach-Bliley Act (GLBA), enacted in 1999, includes strict privacy provisions to protect consumers in the financial services industry. The GLBA provides customers with an opportunity to opt-out of sharing non-public personal information with non-affiliated third parties. The GLBA also requires financial institutions to provide customers with privacy disclosures addressing many of the issues raised in HB159. Specifically, the GLBA requires financial institutions to disclose (1) whether and what type of data will be disclosed to affiliated and non-affiliated parties, (2) the categories of data collected, (3) the methods of protecting confidential data, and (4) the ability to opt-out. Exceptions to this general rule exist as it relates to processing transactions and/or reporting information to consumer reporting agencies.

Additionally, insurers offering products and services in Alaska are subject to 3 AAC §§ 26.605-26.749. This portion of the Alaska Administrative Code sets expectations as they relate to implementation of the GLBA. 3 AAC §26.705 further requires an insurer to develop and implement a comprehensive, written customer information security program designed to ensure the security and confidentiality of customer information, protect against anticipated threats or hazards, and protect against unauthorized access to or use of customer information.

Proposed Amendments to HB159

HB 159 seemingly acknowledges the robust set of laws in place to regulate the collection and use of data by insurers. However, the proposed exemption found at Sec. 9, Pg. 17-18 is not a full exemption, as it would only apply to data collected, processed, sold, or disclosed when done pursuant to the GLBA. This exemption would require an insurer to sort through different types of data collected to determine which standard would apply – GLBA, state privacy law, or other requirements. This approach would be challenging to implement, to say the least, and would impose a heavy burden on companies. This requirement also has the potential to leave customers vulnerable and confused, especially as more states look to take on the issue of consumer data privacy.

Additionally, this group requests that the insurance industry be excluded from the private right of action under Sec. 9, pg. 22. The Alaska Division of Insurance has a variety of tools at its disposal to enforce existing regulations, including privacy protections. A private right of action would undermine agency authority and result in disparate outcomes for consumers.

To avoid a mishmash of differing state laws, ACLI, APCIA, and NAMIC, on behalf of their members, ask the Committee to amend HB 159 to include an entity-level GLBA exemption that aligns with privacy laws recently passed in VA and CO. We believe the following

amendment would better accomplish the bill's dual objectives of protecting consumers and supporting state businesses (referring to CS for HB 159 version I):

Sec. 9: pg. 18, line 2: Include the following language:

"(5) a covered entity, its affiliates and subsidiaries, and any data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. 6801 et. seq.), or the regulations adopted pursuant thereto."

Sec. 9: pg. 18, line 5-7: Delete the following language:

(A) 15 U.S.C. 6801-6827 (Gramm-Leach-Bliley Act) and related regulations, if the collection, processing, sale, or disclosure is consistent with that act and only to the extent of the consistency; or

Conclusion

Insurers were never the intended target of this legislation, as we do not sell personal information. Rather, **the insurance industry is a long-time leader in the consumer privacy space. It is because of our robust oversight that our industry would be uniquely harmed by HB159, or any generally applicable law that governs conduct already restricted under the GLBA.** We appreciate the opportunity to share our concerns and provide recommendations regarding the proposed amendment to HB159, and would offer our knowledge and resources in any way helpful.

Sincerely,

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