



September 5, 2023

To: The Honorable Members of the House Commerce Committee

From: Timothy L. Knapp

Re: House Bill 1201 – establishing a Consumer Data Privacy Act

Thank you for the opportunity to be here today. I am Tim Knapp, General Counsel of the Insurance Federation. We are a trade association that represents insurers offering all lines of insurance in Pennsylvania. Our membership is diverse, but with common bonds relevant to this bill:

- Each of our members uses consumer data to underwrite and rate risk, to pay claims, and to otherwise serve our policyholders.
- Each of our members is committed to protecting that data and accepts the value of government oversight and standards to assure we meet the privacy needs that come with it.

Consistent with our testimony on similar legislation last session, we support the objective of this bill to protect consumers and their personal data from misuse. We think bringing this unregulated activity under the Attorney General's oversight and enforcement makes sense as a general rule.

That brings us to our recommendation: **Exempt entities that are already subject to this level of regulation and oversight under other laws; keep the focus where the problem is, on unregulated use.**

Now for more detail on this recommendation as it applies to insurers.

- 1. Insurers are already subject to federal laws and state regulations governing consumer privacy and should therefore be exempted here.**

We recommend the bill exempt insurers – not because we object to its requirements, but because we are already subject to this level of oversight and restrictions under federal and state laws controlling our use of non-public consumer data.

- On the federal end, these include the Health Insurance Portability and Accountability Act (HIPAA), the Gramm Leach Bliley Act (GLBA), the Fair Credit Reporting Act, and Driver Privacy Protections Act.
- On the state end, Pennsylvania promulgated an insurer-specific regulation on this in 2001 – Chapter 146a of Title 31 of the Pennsylvania Code. It adopts the model regulation of the National Association of Insurance Commissioners, bringing the protections of the GLBA here and subject to the Department's oversight and enforcement.

These laws and regulations govern and restrict how insurers use non-public consumer information, and they include notice to consumers of the protections provided by these laws as well as the rights given to consumers under them. To that end, they are already providing our policyholders with the protections this bill will establish for others.

We therefore ask for an amendment to HB 1201 to mirror the Virginia law by providing an entity-level exemption for a financial institution or an affiliate of a financial institution as defined by and subject to the Gramm-Leach-Bliley Act (GLBA). This is in addition to HIPAA, PA's regulations in this area, and to entities governed by the Fair Reporting Act and the Driver Privacy Protections Act.

- That will keep the focus on the problem the bill intends to address and avoid the confusion of dual and possibly inconsistent regulation of our industry.

2. An exemption for the NICB – a 501(c)(4) non-profit

We also ask that House Bill 1201 be amended to exempt non-profits that combat insurance fraud. We ask for this on behalf of the National Insurance Crime Bureau (NICB), a non-profit dedicated to fighting insurance fraud and crime.

States that have enacted legislation in this area have handled this issue differently: California and Utah exempt all non-profits; Colorado doesn't exempt any; Connecticut exempts 501(c)(4)'s; Virginia's law was subsequently amended to exempt the NICB.

While the issue of applying an exemption to non-profits has been a topic of debate in other states, it shouldn't be here with respect to the NCIB:

- In recognition of the sensitive nature of its work, Pennsylvania law (40 P.S. 474.1) already affords civil immunity to entities such as the NICB.
- Insurance fraud investigations involve the sharing of personal information between insurers, law enforcement, and anti-insurance fraud organizations such as the NICB. Absent an exemption, our concern is this process could be inadvertently impeded.

Thank you again for the opportunity to come before you today. I am happy to answer any questions and look forward to continued work with this committee on this issue.