

## The Insurance Federation of Pennsylvania

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May 25, 2022

To: The Honorable Members of the House Committee on Consumer Affairs

From: Jonathan C. Greer

**Re: HB 2202 – establishing a Consumer Data Privacy Act**

Thank you for the opportunity to be here today. I am Jonathan Greer, President 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.

To that end, we support HB 2202 and Rep. Mercurri's objective of protecting consumers and their personal data from "aggregators," those businesses that harvest, buy, or sell this data to third parties. 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 data aggregators.**

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 other consumers.

**We therefore ask for an amendment to HB 2202 to mirror the Virginia law by providing an entity-level exemption for entities subject to GLBA and HIPAA, including PA's regulations, 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 – that of unregulated data aggregators – and avoid the confusion of dual and possibly inconsistent regulation of our industry.

- This is consistent with all but one of the five states that have enacted this type of law – VA, UT, CO and a few weeks ago, CT. CA took a more limited approach that does not totally exempt entities subject to these laws.

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

We ask that HB 2202 also 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.

The five 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 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 the NICB and similar entities.
- Insurance fraud investigations involve the sharing of personal information between insurers, law enforcement, and organizations such as the NICB. Absent an exemption, this process would be impeded.
- The NICB has no interest in commoditizing and selling personal information. That's not its mission.

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