

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 461*

Short Title: Insurance Information Privacy-AB.

(Public)

Sponsors: Senator Wellons.

Referred to: Insurance and Consumer Protection.

March 15, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE THE NORTH CAROLINA INSURANCE INFORMATION AND
3 PRIVACY PROTECTION ACT COMPLY WITH THE CONSUMER
4 INFORMATION PRIVACY REQUIREMENTS IN THE FEDERAL GRAMM-
5 LEACH-BLILEY ACT, PUBLIC LAW 106-102.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-39-10 reads as rewritten:

8 "**§ 58-39-10. Scope.**

9 (a) The obligations imposed by this Article shall apply to those insurance
10 institutions, agents, or insurance-support organizations that, on or after July 1, 1982:

11 (1) In the case of ~~life or accident and health~~ life, health, or disability
12 insurance:

13 a. Collect, receive, or maintain information in connection with
14 insurance transactions that pertains to natural persons who are
15 residents of this State; or

16 b. Engage in insurance transactions with applicants, individuals, or
17 policyholders who are residents of this State; and

18 (2) In the case of property or casualty insurance:

19 a. Collect, receive, or maintain information in connection with
20 insurance transactions involving policies, contracts, or
21 certificates of insurance delivered, issued for delivery, or
22 renewed in this State; ~~or~~

23 b. Engage in insurance transactions involving policies, contracts,
24 or certificates of insurance delivered, issued for delivery, or
25 renewed in this ~~State~~ State; or

26 c. Engage in transactions involving mortgage guaranty insurance
27 where the mortgage guaranty policies, contracts, or certificates

1 of insurance are delivered, issued for delivery, or renewed in
2 this State.

3 (b) The rights granted by this Article shall extend to:

4 (1) In the case of ~~life or accident and health~~ life, health, or disability
5 insurance, the following persons who are residents of this State:

6 a. Natural persons who are the subject of information collected,
7 received, or maintained in connection with insurance
8 transactions; and

9 b. Applicants, individuals, or policyholders who engage in or seek
10 to engage in insurance transactions;

11 (2) In the case of property or casualty insurance, the following persons:

12 a. Natural persons who are the subject of information collected,
13 received, or maintained in connection with insurance
14 transactions involving policies, contracts, or certificates of
15 insurance delivered, issued for delivery, or renewed in this
16 State; and

17 b. Applicants, individuals, or policyholders who engage in or seek
18 to engage in (i) insurance transactions involving policies,
19 contracts, or certificates of insurance delivered, issued for
20 delivery, or renewed in this ~~State.~~ State; or (ii) mortgage
21 guaranty insurance transactions involving policies, contracts, or
22 certificates of insurance delivered, issued for delivery, or
23 renewed in this State.

24 (c) For purposes of this section, a person shall be considered a resident of this
25 State if the person's last known mailing address, as shown in the records of the
26 insurance institution, agent, or insurance-support organization, is located in this State.

27 (d) Notwithstanding subsections (a) and (b) of this section, this Article shall not
28 apply to information collected from the public records of a governmental authority and
29 maintained by an insurance institution or its representatives for the purpose of insuring
30 the title to real property located in this State."

31 **SECTION 2.** G.S. 58-39-15(1) reads as rewritten:

32 "(1) "Adverse underwriting decision" means:

33 a. Any of the following actions with respect to insurance
34 transactions involving insurance coverage that is individually
35 underwritten:

36 1. A declination of insurance coverage;

37 2. A termination of insurance coverage;

38 3. Failure of an agent to apply for insurance coverage with
39 a specific insurance institution that an agent represents
40 and that is requested by an applicant;

41 4. In the case of a property or casualty insurance coverage:

42 I. Placement by an insurance institution or agent of
43 a risk with a residual market ~~mechanism or~~
44 mechanism, an unauthorized insurer, or an

insurance institution that specializes in
substandard risks; or

II. The charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished; or

5. In the case of a ~~life or accident and health-life~~, health, or disability insurance coverage, an offer to insure at higher than standard rates.

b. Notwithstanding subdivision (1)a of this section, the following actions shall not be considered adverse underwriting decisions, but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

1. The termination of an individual policy form on a class or statewide basis;

2. A declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or

3. The rescission of a policy."

SECTION 3. G.S. 58-39-15(9) reads as rewritten:

"(9) "Individual" means any natural person who:

a. In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

b. In the case of life or accident and health insurance, is a past, present, or proposed principal insured or certificate holder;

c. Is a past, present or proposed policy owner;

d. Is a past or present applicant;

e. Is a past or present claimant; ~~or~~

f. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this ~~Article~~.Article; or

g. Is the subject of personal information collected or maintained by an insurance institution, agent, or insurance-support organization in connection with mortgage guaranty insurance."

SECTION 4. G.S. 58-39-25 reads as rewritten:

"§ 58-39-25. Notice of insurance information practices.

(a) An insurance institution or agent shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as provided in this section:

(1) In the case of an application for insurance a notice shall be provided no later than:

a. At the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant or from public records; or

- 1 b. At the time the collection of personal information is initiated
2 when personal information is collected from a source other than
3 the applicant or public records;
- 4 (2) In the case of a policy ~~renewal, that has been issued,~~ a notice shall be
5 provided ~~no later than the policy renewal date, except that no notice~~
6 ~~shall be required in connection with a policy renewal if:~~
7 a. ~~Personal information is collected only from the policyholder or~~
8 ~~from public records; or~~
9 b. ~~A notice meeting the requirements of this section has been~~
10 ~~given within the previous 24 months; not less than annually~~
11 ~~while the policy is in force; or~~
- 12 (3) In the case of a policy reinstatement or change in insurance benefits, a
13 notice shall be provided no later than the time a request for a policy
14 reinstatement or change in insurance benefits is received by the
15 insurance ~~institution, except that no notice shall be required if personal~~
16 ~~information is collected only from the policyholder or from public~~
17 ~~records. institution.~~
- 18 (b) The notice required by subsection (a) of this section shall be in writing and
19 shall state:
- 20 (1) Whether personal information may be collected from persons other
21 than the individual or individuals proposed for ~~eoverage; coverage.~~
22 (2) The types of personal information that may be collected and the types
23 of sources and investigative techniques that may be used to collect
24 such ~~information; information.~~
25 (3) The types of disclosures identified in subsections (2), (3), (4), (5), (6),
26 (9), (11), (12), and (14) of G.S. 58-39-75 and the circumstances under
27 which such disclosures may be made without prior authorization:
28 Provided, however, only those circumstances need be described that
29 occur with such frequency as to indicate a general business
30 ~~practice; practice.~~
31 (4) A description of the rights established under G.S. 58-39-45 and
32 58-39-50 and the manner in which such rights may be ~~exercised; and~~
33 ~~exercised.~~
34 (5) That information obtained from a report prepared by an
35 insurance-support organization may be retained by the
36 insurance-support organization and disclosed to other persons.
37 (6) The policies and practices of the insurance institution or agent with
38 respect to disclosing nonpublic personal information to nonaffiliated
39 third parties, other than agents of the insurance institution or agent,
40 consistent with section 502 of P.L. 106-102, the Gramm-Leach-Bliley
41 Act, and including:
42 a. The categories of persons to whom the information is or may be
43 disclosed, other than the persons to whom the information may

1 be provided pursuant to section 502(e) of P.L. 106-102, the
2 Gramm-Leach-Bliley Act.

3 b. The policies and practices of the insurance institution or agent
4 with respect to disclosing of nonpublic personal information of
5 persons who have ceased to be customers of the insurance
6 institution or agent.

7 (7) The policies that the insurance institution or agent maintains to protect
8 the confidentiality and security of nonpublic personal information in
9 accordance with section 501 of P.L. 106-102, the Gramm-Leach-Bliley
10 Act.

11 (8) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the
12 Fair Credit Reporting Act.

13 (c) ~~In lieu of the notice prescribed in subsection (b) of this section, the insurance~~
14 ~~institution or agent may provide an abbreviated notice informing the applicant or~~
15 ~~policyholder that:~~

16 (1) ~~Personal information may be collected from persons other than the~~
17 ~~individual or individuals proposed for coverage;~~

18 (2) ~~Such information, as well as other personal or privileged information~~
19 ~~subsequently collected by the insurance institution or agent, in certain~~
20 ~~circumstances, may be disclosed to third parties without authorization;~~

21 (3) ~~A right of access and correction exists with respect to all personal~~
22 ~~information collected; and~~

23 (4) ~~The notice prescribed in subsection (b) of this section will be furnished~~
24 ~~to the applicant or policyholder upon request.~~

25 For the purposes of this section, 'applicant' or 'policyholder' includes a person who
26 applies for or obtains coverage under a group insurance contract, regardless of whether
27 that person's coverage is individually underwritten. An insurance institution or agent
28 that does not disclose personal information about an applicant or policyholder under a
29 group insurance contract, as permitted by G.S. 58-39-75(11), may satisfy any notice
30 requirement that otherwise exists under this section with respect to the applicant or
31 policyholder by providing a notice of information practices to the holder of the group
32 insurance contract.

33 (d) The obligations imposed by this section upon an insurance institution or agent
34 may be satisfied by another insurance institution or agent authorized to act on its
35 behalf."

36 **SECTION 5.** Article 39 of Chapter 58 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 58-39-26. Exception for title insurance.**

39 A title insurance company shall give notice of its insurance information practices
40 under G.S. 58-39-25 only at the time the final policy of title insurance is issued and is
41 not subject to any annual notice requirement thereafter."

42 **SECTION 6.** G.S. 58-39-75(1) reads as rewritten:

43 "(1) With the written authorization of the individual, provided:

- 1 a. If such authorization is submitted by another insurance
 2 institution, agent, or insurance-support organization, the
 3 authorization meets the requirements of G.S. 58-39-35; or
 4 b. If such authorization is submitted by a person other than an
 5 insurance institution, agent, or insurance-support organization,
 6 the authorization meets the requirements of G.S. 58-39-35 and
 7 is:
 8 1. Dated;
 9 2. Signed by the individual; and
 10 3. Obtained one year or less ~~prior to~~ before the date a
 11 disclosure is sought pursuant to this paragraph; or".

12 **SECTION 7.** G.S. 58-39-75(18) reads as rewritten:

13 "(18) To a lienholder, mortgagee, assignee, lessor, or other person shown on
 14 the records of an insurance institution or agent as having a legal or
 15 beneficial interest in a policy of ~~insurance; provided that~~ insurance
 16 only if:

- 17 a. No medical record information is disclosed unless the
 18 disclosure would otherwise be permitted by this section; and
 19 b. ~~the~~ The information disclosed is limited to that which is
 20 reasonably necessary to permit such person to protect its
 21 interest in such policy; or".

22 **SECTION 8.** Article 39 of Chapter 58 of the General Statutes is amended by
 23 adding a new section to read:

24 **"§ 58-39-76. Limits on sharing account number information for marketing**
 25 **purposes.**

26 (a) General Prohibition on Disclosure of Account Numbers. – An insurance
 27 institution, insurance agent, or insurance-support organization shall not disclose, other
 28 than to a consumer reporting agency, an account number or similar form of access
 29 number or access code for a credit card account, deposit account, or transaction account
 30 of a consumer to any nonaffiliated third party for use in telemarketing, direct mail
 31 marketing, or other marketing through electronic mail to the consumer.

32 (b) Definitions. – As used in this section:

- 33 (1) "Account number" means an account number, or similar form of
 34 access number or access code, does not include a number or code in an
 35 encrypted form, as long as the insurance institution, insurance agent, or
 36 insurance-support organization does not provide the recipient with a
 37 means to decode the number or code.
 38 (2) "Transaction account" means an account other than a deposit account
 39 or credit card account. A transaction account does not include an
 40 account to which third parties cannot initiate charges."

41 **SECTION 9.** If any section or provision of this act is declared
 42 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the
 43 validity of the act as a whole or any part other than the part so declared to be
 44 unconstitutional, preempted, or otherwise invalid.

1 **SECTION 10.** This act is effective when it becomes law.