



State of New Jersey

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BULLETIN NO. 18-16

**TO: ALL INSURERS AUTHORIZED OR ADMITTED TO TRANSACT
INSURANCE IN THIS STATE**

FROM: MARLENE CARIDE, COMMISSIONER

**RE: INQUIRIES REGARDING THE GRAMM-LEACH-BLILEY ACT AND
FIXING AMERICA'S SURFACE TRANSPORTATION ACT**

The Department of Banking and Insurance ("Department") has received inquiries from insurers which have raised the issue of annual privacy notices under the Gramm-Leach-Bliley Act ("GLBA") and the more recent Fixing America's Surface Transportation ("FAST") Act change allowing elimination of such notices unless the company changes its privacy policy. These insurers have also requested that the Department eliminate "redundant" notice requirements consistent with the FAST Act. The Department is issuing this Bulletin to provide guidance to insurers and explain why such action is not required.

GLBA, enacted November 12, 1999, requires financial institutions, including insurers, to protect the privacy of consumers' non-public personal information. Under GLBA, state insurance regulators are authorized to enforce Federal privacy laws as they apply to insurers, and may enact and enforce standards that exceed those in GLBA. Section 505(c) of GLBA provides that if a state failed to adopt regulations that were at least as stringent as the minimum Federal standards, state action would be preempted.

As set forth in Bulletin No. 00-15 (issued November 8, 2000), attached hereto, the Department determined that New Jersey's existing law – the Information Practices Act, N.J.S.A. 17:23A-1 to -22 ("Act") - met or exceeded the minimum Federal requirements in the GLBA. New Jersey's statute is based on the NAIC Insurance Information and Privacy Protection Model Act (Model #670), and regulates the collection, use, and disclosure of information gathered by insurers in connection with policies, contracts or certificates of insurance issued or delivered in this State. The Department determined that this Act provides standards at least as stringent as those under GLBA. As noted in Bulletin No. 00-15, insurers have been required to comply with the Information Practices Act since 1985, and continue to be so required. Consequently, New Jersey did not enact or adopt any new annual notice requirements in connection with GLBA.

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In order to assist states that did not meet the Federal requirements at the time of GLBA's enactment, the NAIC adopted a new model, Privacy of Consumer Financial and Health Information Regulation (Model #672). That model law closely tracked the new provisions of the GLBA. Upon enactment of the FAST Act in December 2015, which eliminated annual notices under certain conditions such as those imposed under the GLBA, the NAIC again provided regulatory support to those states that had adopted Model #672 by drafting a model bulletin to adjust state laws to the FAST Act amendments.

A number of insurers have requested that the Department issue this model bulletin. However, because New Jersey did not adopt any new annual notice requirements post-GLBA based upon NAIC Model #672, this State has no rules or statutes to modify in response the FAST Act. The existing Information Practices Act, N.J.S.A. 17:23A-1 to -22, has applied since 1985 and continues to apply to insurers operating in New Jersey.

12/20/18
Date

Marlene Caride
Marlene Caride
Commissioner

Jc GLBA and FAST Act /bulletins



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KAREN L. SUTER
Commissioner

BULLETIN NO.: 00-15

**TO: ALL INSURERS AUTHORIZED OR ADMITTED TO TRANSACT
BUSINESS IN THIS STATE**

FROM: KAREN L. SUTER, COMMISSIONER

**RE: ENFORCEMENT OF GRAMM-LEACH-BLILEY PRIVACY
REQUIREMENTS**

The Gramm-Leach-Bliley Act, P.L. 106 - 102 ("GLBA") enacted November 12, 1999, requires financial institutions, including insurers, to protect the privacy of consumers' non-public personal information. Title V of GLBA requires Federal and state regulators to implement GLBA's privacy protections within six months of the Act's effective date, except to the extent a later date is specified by rule. The Act takes effect November 13, 2000; however, under the authority of GLBA at section 510(1), Federal regulators delayed enforcement until July 1, 2001. See 65 Fed. Reg. 35162, 35184 - 35185.

Under GLBA, state insurance regulators are authorized to enforce Federal privacy laws as they apply to insurers and may enact and enforce privacy standards that exceed those in GLBA. Section 505(c) of GLBA provides that if a state fails to adopt regulations that meet at least the Federal minimum standards, state action is preempted. Our existing law regarding the disclosure of information gathered by insurers generally meets or exceeds these Federal standards already and, as set forth below, we do not anticipate the need for significant changes.

N.J.S.A. 17:23A-1 et seq., effective December 7, 1985, and based on the National Association of Insurance Commissioners' Insurance Information and Privacy Protection Model Act, regulates the collection, use and disclosure of information gathered by insurers in connection with policies, contracts or certificates of insurance issued or delivered in this State. In most respects, this statute provides standards that are at least as stringent, and in many cases more stringent, than the standards set forth in GLBA. Insurers transacting business in this State have been required to comply with N.J.S.A. 17:23A-1 et seq. with respect to the use, collection and disclosure of information and continue to be so required. If needed, the Department of Banking and Insurance ("Department") will seek any amendments to the existing law to ensure

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that this State's existing information practices standards are, in all respects, at least as stringent as those standards in GLBA.

The Department also notes that the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision, proposed interagency guidelines establishing standards for the safe keeping of customer information, on June 26, 2000. See 65 Fed. Reg. 39472. These rules set forth the standards for financial institutions related to the administrative, technical and physical safeguards for customer records and information to ensure the security and confidentiality of this information. The Department intends to promulgate rules applying similar standards to insurers to be effective July 1, 2001.

Accordingly, the Department is issuing this Bulletin to advise insurers that

1. Insurers have been and will continue to be subject to the information collection and disclosure requirements set forth at N.J.S.A. 17:23A-1 et seq.,
2. If necessary, the Department will seek amendments to N.J.S.A. 17:23A-1 et seq. determined to be necessary to ensure that the standards set forth in that statute are, in all respects, at least as stringent as those set forth in GLBA; and
3. With respect to the enforcement of Federal privacy standards under GLBA, other than those set forth in N.J.S.A. 17:23A-1 et seq., the Department will act in accordance with the delayed enforcement date of July 1, 2001.

The Department anticipates that insurers will begin to review the requirements of the Federal rules identified above so as to become familiar with the nature of the administrative, technical and physical safeguards necessary to ensure the confidentiality of customer records and information. Insurers should identify areas that may need to be improved for compliance with similar standards to be adopted by the Department for insurers.

11/8/2000.
Date

Karen L. Suter
Karen L. Suter
Commissioner

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