# MEMORANDUM

PIFC

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FARMERS
21ST CENTURY
SAFECO
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**Date:** June 20, 2007

**To:** The Honorable Ellen Corbett, Chair
The Honorable Tom Harman, Vice Chair
Members, Senate Judiciary Committee

**From:** Rex D. Frazier, President
Michael A. Gunning, Vice President
Ermelinda Ruiz, Legislative Advocate

**Re:** AB 779 (Jones): Personal information
As Amended June 1, 2007
Senate Judiciary Committee Hearing: June 26, 2007
**PIFC Position: Oppose unless amended**

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The Personal Insurance Federation of California (PIFC), representing insurers who write over 50% of all personal lines insurance sold in California, including State Farm, Farmers, Safeco, 21st Century, Progressive, and NAMIC, opposes, unless amended, **Assembly Bill 779** authored by Assembly Member Dave Jones.

The ostensible purpose of AB 779 is to require retailers who are responsible for unintended disclosure of consumer credit card numbers to provide certain information about the breach to the credit unions or banks issuing the credit cards and to reimburse the credit union or banks for the cost of issuing replacement cards.

The California Credit Union League, sponsors of AB 779, supports the bill by reciting the story of how TJX, the parent company of Marshall's and TJ Maxx, through lax security, allowed hackers to download 45.7 million credit and debit card numbers. Credit unions that issued some of those credit cards complained about having to disclose the breach to the cardholders and about the cost of issuing replacement cards.

Whether you support the concept of shifting the burden of notice and the replacement of cards to retailers, the truth remains that this issue has nothing to do with insurance companies and their agents. Despite the fact that insurance companies are not responsible for breaches like TJX's, AB 779 is overly broad and it sweeps in insurers.

AB 779 sweeps in insurers by requiring them to provide to their customers following a breach the same information that retailers would be required to provide to credit unions and banks when credit card numbers are hacked. Insurer breaches of personal information are rare because they follow extensive security measures. Those breaches generally involve only a few customers' claims data. The insurer breaches are totally different and insurers need the flexibility to address the various situations, unlike those faced by retailers in possession of credit card information. It is inappropriate and unnecessary to include insurers in this bill.

Accordingly, PIFC is opposed to AB 779 unless two amendments are made, removing it from the bill. First, we request clarification that insurance agents are included in the provision excepting those entities subject to Gramm Leach Bliley, the federal privacy law. Second, we request elimination of the provision requiring insurers and other financial institutions to provide the same breach notices that the credit unions want retailers to provide when credit card numbers are hacked. The attached mock-up reflects those amendments.

These amendments would allow the credit unions to pursue their stated purpose for the bill without sweeping in the insurance industry. This is particularly important because California's breach notice provisions have been copied in three dozen states and the current version of AB 779 would undermine this valuable nationwide uniformity and consistency.

For the above reasons, **PIFC is opposed, unless amended, to AB 779 (Jones).** We respectfully request adoption of the amendments in the attached mark-up. If you have any additional questions regarding our position, please contact Ermelinda Ruiz at (916) 442-6646.

cc: The Honorable Dave Jones, Author
Mike Prosio, Chief Deputy, Legislative Affairs Secretary, Office of the Governor
Alexandra Montgomery, Consultant, Senate Judiciary Committee
Mike Petersen, Consultant, Senate Republican Caucus
Kathleen Webb, Office of the Insurance Advisor

Attachment

4.AB779SenJud-6-07