



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS
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MEMORANDUM

STAFF

Dan Dunmoyer
President

Diane Colborn
Vice President of Legislative
& Regulatory Affairs

Michael Gunning
Senior Legislative Advocate

Jerry Davies
Director of Communications

Date: May 29, 2004

To: The Honorable Patricia Wiggins, Chair
Members, Assembly Banking and Finance Committee

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael A. Gunning, Senior Legislative Advocate

RE: SB 1451 (Figueroa): Privacy Guarantees
Assembly Banking and Finance Committee: June 2, 2004
PIFC Position: Oppose Unless Amended

The Personal Insurance Federation of California, representing insurers who write over 50% of all personal lines insurance sold in the state **opposes SB 1451 by Senator Figueroa unless it is amended.**

SB 1451 has two main parts. The first in subsection (b) would require that any person who has access to information protected pursuant to certain specified California privacy laws, and who is not already subject to those laws, shall be liable for a violation of those laws to the same extent as someone who is subject to the laws would be liable. The bill also provides that for purposes of this requirement the person shall be deemed to consent to jurisdiction of the courts of this state. The second part of the bill, which is in subsection (c), would impose a new disclosure requirement on businesses already subject to the privacy laws to notify customers if personal information may be processed by persons located outside of the United States.

PIFC's main concern with the bill is with the notice requirement in subsection (c). Insurance companies are already required to provide privacy notices to their customers under the federal GLBA and other state privacy laws. The notice requirement in SB 1451 would be in addition to these existing notices, and thus add implementation costs to business for programming and mailing. Moreover, the requirement to disclose whether any of the data may be processed outside the United States serves no specific purpose and provides no real benefit to consumers. The disclosure may also infer that there is reason to be concerned when data processing services are performed in other countries, or that data processors in other countries are inherently inferior to data processors in California, when there is no evidence that is the case. In fact, the ability to process data through a processing center located outside the United States may actually result in faster and more efficient service to the customer by enabling 24-hour service.

With regard to subsection (b), we understand that the intent is to require that persons who receive information from entities who are subject to California privacy laws requiring them to protect information from disclosure, shall also be required to protect it from disclosure, and will be liable for a violation of those requirements to the same extent as the entity from whom they received the information would be. Thus, the idea is to protect

the information through the chain of transfer, wherever it may end up. We do not necessarily have a problem with this intent. However, we are concerned that the language of the bill is unclear and could be interpreted more broadly to extend the application of California's privacy laws to anyone who is not already covered by those laws, including, for example, persons who have access to the information for purposes currently exempt under SB 1. Without further clarification, the intent of the bill could be misconstrued.

For all these reasons, **PIFC opposes SB 1451 unless amended** to delete the notice requirement and clarify the effect of the other parts of the bill. If you have any questions regarding this position, please contact Diane Colborn at (916) 442-6646.

cc: Senator Figueroa, Author
Margaret Gladstein, Assembly Banking and Finance Committee
Peter Renevitz, Assembly Republican Caucus
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor