

March 17, 2025

RE: SB 2088 – North Dakota Data Security

Thank you for this opportunity to provide comments on North Dakota Senate Bill 2088. The American Property Casualty Insurance Association (APCIA)¹, the American Council of Life Insurers (ACLI)², and the National Association of Mutual Insurance Companies (NAMIC)³ are committed to strong consumer protections and the safeguarding of sensitive personal information. We appreciate the Insurance Department's robust engagement with stakeholders in pursuing solutions that balance consumer protections with operational feasibility.

However, we have significant concerns about the proposed amendments to North Dakota's data security law and must oppose this bill. These changes would impose substantial challenges on insurers while offering limited additional benefits to consumers.

1. Definition of Cybersecurity Event

Our members oppose the proposed amendment to the definition of "cybersecurity event" and respectfully request that it remain unchanged in the existing law. Altering this definition could lead to unintended consequences, potentially triggering new or inconsistent technical requirements that create compliance challenges without improving consumer protection. Additionally, maintaining the current definition aligns North Dakota's law with other states that have enacted the NAIC Insurance Data Security Model Law, promoting regulatory uniformity and reducing unnecessary burdens on insurers operating in multiple jurisdictions.

2. Revisions to Notice Provisions

¹ APCIA is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association.

² ACLI is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States.

³ NAMIC represents nearly 1,500 member companies, including six of the top 10 property/casualty insurers in the United States. NAMIC member companies collectively write more than \$391 billion in annual premiums and represent significant portions of the homeowners, automobile, and business insurance markets, including \$546 million in written premium in the state of North Dakota.

The existing law appropriately limits notification requirements to cybersecurity events that are reasonably likely to cause material harm to insurance licensees or consumers whose sensitive personal information is affected. This standard strikes a crucial balance between meaningful oversight and operational efficiency, ensuring attention is focused on incidents that truly matter.

In contrast, the proposed amendment would create unnecessary administrative burdens and divert resources from addressing genuine threats to consumer protection and cybersecurity. Many instances of unauthorized access are not malicious and pose no risk of harm to consumers. For example, a claims file might be sent to the wrong plaintiff's lawyer, or an employee could inadvertently include sensitive information in an internal email. Such occurrences do not warrant notification, and regulatory departments would neither need nor want to be inundated with these reports.

Equally concerning is the potential ripple effect: requiring notification of insignificant events to North Dakota could trigger notice obligations in other states, amplifying the burden without enhancing consumer protection.

Notably, most states that have enacted the NAIC Insurance Data Security Model Act have adopted similar language, ensuring notification provisions target only events with a meaningful likelihood of harm. Retaining the current standard not only safeguards consumers but also fosters uniformity across jurisdictions, creating a consistent, efficient framework that benefits both insurers and consumers.

3. Removal of Written Consent for Public Disclosure

We also oppose removing the requirement for licensees' prior written consent before public disclosure of sensitive information. While we understand the Department's intention to align this change with statutory requirements for transparency, this change introduces risks without clear consumer benefits.

The Department has stated that confidential documents will still be protected and that examination reports will be shared only after review by the company. However, the absence of a written consent requirement removes a critical safeguard that ensures insurers maintain control over the release of potentially sensitive information. While an opportunity to review the report before publication is valuable, it does not provide the same level of protection as requiring affirmative consent. Even minor inaccuracies or misinterpretations in a public report could have reputational and operational consequences for insurers, especially when cybersecurity-related findings are involved.

Furthermore, IT security concerns are fundamentally different from traditional financial examination findings. Public disclosure of issues—without prior consent—could expose vulnerabilities that bad actors might exploit. Removing consent for publication may inadvertently undermine cybersecurity rather than strengthen oversight.

Conclusion

APCIA, ACLI, and NAMIC all believe in protecting consumers and ensuring strong data security practices. However, the proposed amendments would burden insurers with requirements that provide limited additional consumer protection. We urge the North Dakota legislature to oppose Senate Bill 2088 to maintain the balance between regulatory oversight and operational feasibility that the current law achieves.

By preserving a practical, focused approach to data security, North Dakota can ensure robust consumer protection while supporting an insurance industry that effectively serves its policyholders.

Sincerely,



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