

**2019 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1138**

# 2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1138  
1/14/2019  
30757

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang

## Explanation or reason for introduction of bill/resolution:

Annual privacy notices.

**Minutes:**

Attachment 1, 2

**Chairman Keiser:** Opens the hearing on HB 1138.

**Dennis Pathroff~Attorney with Zuger, Kirmis & Smith representing the members of the Association of ND Domestic Insurers:** Attachment 1.

1:45

**Chairman Keiser:** Why not more, why do we need both of those?

**Dennis Pathroff:** Subdivision 1 deals with the nonaffiliated 3<sup>rd</sup> party sharing rules. The company policy can't have changed since the last notice. It should be an "and" not an "or". We are requiring both.

**Rep Schauer:** How will I know if a company's private policy has changed.

**Dennis Pathroff:** With this bill, they would be given an additional notice when policy changes. Currently the company is required to send an initial notice & an annual notice.

**Rep Schauer:** That's already covered? Basically you are eliminating the "and".

**Dennis Pathroff:** Exactly.

**Rep Ruby:** When a policy is changed, does that change have to be approved by the commissioner as well, currently?

**Dennis Pathroff:** I'm not sure about that.

**Steve Schneider~Representing American Property Casualty Insurance Association:** Attachment 2. (did not attend the hearing but submitted testimony).

**Chairman Keiser:** Anyone else here to testify in support of HB 1138, opposition, neutral?

**Johnny Palsgraaf~Legal Counsel for the ND Insurance Department:** Look at line 10, it's going to be Section B. In the same line "notwithstanding" subsection b, they have eliminated one section. The correct letter should "notwithstanding subsection a".

**Chairman Keiser:** What are the health information policies that insurance have that are different from HIPPA?

**Johnny Palsgraaf:** HIPPA is stricter regarding the personal information of the insured. The 3<sup>rd</sup> party, these are the non HIPPA protected.

**Chairman Keiser:** I not sure what is "shared".

**Johnny Palsgraaf:** This deals with nonaffiliated 3<sup>rd</sup> parties. Basically your HIPPA is still protected but you would get notice of what they are sharing to the 3<sup>rd</sup> party.

**Rep Ruby:** Is this section dealing with health insurance, so it would be under HIPPA?

**Johnny Palsgraaf:** Yes.

**Rep Ruby:** Even if this passes, would we still be receiving our annual notice for property & causality?

**Johnny Palsgraaf:** Property & causality is a different area, but you would still have your annual privacy notice statement. There is no HIPPA federal law that is directly related to property & causality companies.

**Rep Ruby:** You don't have any standardize requirements for confidentiality policy, for the health side of things?

**Johnny Palsgraaf:** It's addressed in the ND administrative rules that they have to send the annual privacy notice. This change will make so that they don't have to send it.

**Rep Ruby:** The guidelines for that?

**Johnny Palsgraaf:** I couldn't speak to that.

**Rep M Nelson:** I assume that some reason why the insurance commissioners think that an annual notice needed. I hear that our department has trouble eliminating the annual notice. I'm not sure why they didn't eliminate the annual notice.

**Johnny Palsgraaf:** I believe it was the Dodd-Frank Act, that actually allowed that to be a federal change, that allowed "not the annual notice" under these specific circumstance. what this is doing is taking what happened in the federal law & the NAIC actually changed their guidelines. Now this is the exact wording in the NAIC guidelines. That is what is being brought in here.

**Rep M Nelson:** Why do we need this law?

**Johnny Palsgraaf:** It has to be reenacted, the new guidelines to make the rules consistent.

**Rep M Nelson:** Any other rules changes?

**Johnny Palsgraaf:** No.

**Chairman Keiser:** Further questions? Closes the hearing. What are the wishes of the committee?

**Rep D Ruby:** Moves the amendment.

**Rep Adams:** Second.

**Voice vote, motion carried.**

**Chairman Keiser:** Further questions, what are the wishes of the committee?

**Rep Schauer:** Moves a Do Pass as Amended.

**Rep Laning:** Second.

**Roll call was taken for a Do Pass as Amended on HB 1138 with 10 yes, 0 no, 4 absent & Rep O'Brien is the carrier.**

19.0639.01001  
Title.02000

Adopted by the Industry, Business and Labor  
Committee

January 14, 2019

Ch  
1/14/19  
1 of 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1138

Page 1, line 10, overstrike "b" and insert immediately thereafter "a"

Renumber accordingly

Date: Jan 14, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1138

House \_\_\_\_\_ Industry, Business and Labor Committee \_\_\_\_\_

Subcommittee

Amendment LC# or Description: 19,0639.01001 title .02000

Recommendation

- Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions

- Reconsider

Motion Made by Rep Ruby Seconded By Rep Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent VOICE VOTE - MOTION Carried

Floor Assignment \_\_\_\_\_

Line 10 - striking the letter b replace with letter a

Date: Jan 14, 2019

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1138

House \_\_\_\_\_ Industry, Business and Labor Committee \_\_\_\_\_

Subcommittee

Amendment LC# or  
Description: \_\_\_\_\_

Recommendation

- Adopt Amendment  
 Do Pass     Do Not Pass  
 As Amended     Place on Consent Calendar  
 Reconsider     Without Committee Recommendation  
 Rerefer to Appropriations

Other Actions

- \_\_\_\_\_

Motion Made by Rep Schauer Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	X	
Vice Chairman Lefor	Ab		Rep Richter	Ab	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	Ab		Rep Adams	X	
Rep Laning	X		Rep P Anderson	Ab	
Rep Louser	X		Rep M Nelson	X	

Total (Yes) 10 No 0

Absent 4

Floor  
Assignment Rep O'Brien

**REPORT OF STANDING COMMITTEE**

**HB 1138: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1138 was placed  
on the Sixth order on the calendar.

Page 1, line 10, overstrike "b" and insert immediately thereafter "a"

Renumber accordingly

**2019 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1138**

# 2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HB 1138  
3/11/2019  
Job #33478

- Subcommittee  
 Conference Committee

Committee Clerk: Amy Crane

## Explanation or reason for introduction of bill/resolution:

relating to annual privacy notices.

**Minutes:**

Att. #1-2

**Chairman Klein:** Opened the hearing on SB. All members were present.

**Dennis Pathroff, North Dakota Domestic Insurers:** see attachment #1 for testimony in support of the bill.

**Senator Burckhard:** I've read the privacy notice recently and it said we don't sell you info or anything. How do we know they actually don't?

**Dennis:** I'm not exactly sure it really works; I do know what they have to disclose.

**Senator Piepkorn:** How often do they change their policies?

**Dennis:** I'm not sure but I don't think very often.

**Chairman Klein:** Gramm Leach Bliley was financial institutions where you insurance person was over here and your finance person was over here, we began all those privacies. We're required to send opt ins and opt outs, even though there aren't any changes. It's the same thing and we traditionally, those names don't come from insurance or financial industry sharing things.

**Dennis:** I think you're correct.

**Chairman Klein:** And where they get our phone numbers to sell us things I'm not sure.

**Dennis:** This bill simply does away with annual notices if your company's policies haven't changed since last notice.

**Chairman Klein:** closed the hearing on HB 1138.

Senate Industry, Business and Labor Committee  
HB 1138  
3/11/19  
Page 2

See attachment #2 for additional testimony submitted to the committee.

**Senator Roers: Moved a Do Pass.**

**Senator Burckhard: Seconded.**

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Piepkorn will carry the bill.**

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1138**

## **Senate Industry, Business and Labor Committee**

Subcommittee

Amendment LC# or Description:

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Rerefer to Appropriations	
	<input type="checkbox"/> Place on Consent Calendar		
	<input type="checkbox"/> Reconsider	<input type="checkbox"/>	

Motion Made By Nevers Seconded By Burkhard

Total (Yes) 6 No 0

Absent 0

Floor Assignment Piupharn

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1138, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1138 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1138**

Attachment 1  
Jan 14, 2019  
Page 1

**Testimony of Dennis Pathroff in Support of HB 1138**

Good afternoon Chairman Keiser and members of the House IBL Committee.

My name is Dennis Pathroff. I am an attorney with the Zuger Kirmis & Smith law firm in Bismarck. I am here today representing the members of the Association of North Dakota Domestic Insurers.

We stand in support of HB 1138. This bill does away with the requirement that insurance companies must send annual privacy notices to continuing customers.

Currently, insurers must provide both an initial privacy policy notice to customers as well as an annual privacy notice to customers. See ND Administrative Code Chapter 45-14-01. These privacy notices, both the initial and the annual, describe company policies and practices relating to disclosing nonpublic personal information.

HB 1138 eliminates the annual privacy notice requirement – as long as a company's privacy policies and practices have not changed since the last notice.

Please note that we have run this legislation past the insurance department and the department had no objections.

HB 1138 lessens the regulatory burden on insurance companies. Moreover, the bill lessens the potential for customer confusion in sending to customers privacy notices that have not changed over time and that are generally available on the companies' website. For these reasons, we urge a "do pass" on HB 1138.

Attachment 2  
Jan 14, 2019  
Page 1

APCI/American Property and Casualty Insurance Association

January 14, 2019

House Industry, Business, and Labor Committee

Support HB 1138

Chairman Keiser and Members of the Committee,

Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCI) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCI represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCI members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

In December of 2015, as part of the Fixing America's Surface Transportation (FAST) Act (Public Law 114-94), Congress amended the Gramm Leach Bliley Act (GLBA) to exempt financial institutions from annual privacy notice obligations under certain circumstances. In 2016, the National Association of Insurance Commissioners (NAIC) initiated efforts to clarify the applicability of this annual notice relief for insurance licensees through a model bulletin and amendments to model regulation #672, "Privacy of Consumer Financial and Health Information Regulation" (Model #672). HB 1138 implements this FAST Act relief.

We believe the FAST Act amendments included in HB 1138 will streamline and simplify redundant and duplicative annual privacy notices thereby benefitting insurance licensees and their customers. For instance, a licensee would no longer be required to provide an annual notice so long as it has not changed the privacy policies and practices described in the most recent privacy notice and only provides nonpublic personal information to nonaffiliated third parties in accordance with certain provisions of the GLBA or implementing regulations. As such, consumers will benefit from having a better understanding as to when something in the insurance licensees' privacy policies and practices has changed and fewer paper notice obligations.

We urge you to support HB 1138. Please don't hesitate to reach out with any questions. Thank you.

Steve Schneider

[sschneider@aiadc.org](mailto:sschneider@aiadc.org)

312.782.7720

**Testimony of Dennis Pathroff in Support of HB 1138**

Good morning Chairman Klein and members of the Senate IBL Committee.

My name is Dennis Pathroff. I am an attorney with the Zuger Kirmis & Smith law firm in Bismarck. I am here today representing the members of the Association of North Dakota Domestic Insurers.

We stand in support of HB 1138. This bill does away with the requirement that insurance companies must send annual privacy notices to continuing customers.

Currently, insurers must provide both an initial privacy policy notice to customers as well as an annual privacy notice to customers. See ND Administrative Code Chapter 45-14-01. These privacy notices, both the initial and the annual, describe company policies and practices relating to disclosing nonpublic personal information.

HB 1138 simply eliminates the duplicative and costly annual privacy notice requirement – as long as a company's privacy policies have not changed.

Please note that we worked on this language with the insurance department and the department had no objections.

HB 1138 lessens the regulatory burden on insurance companies. Moreover, the bill decreases the potential for customer confusion in sending to customers privacy notices that have not changed over time. For these reasons we urge a "do pass" on HB 1138.

**Background Information:**

The initial and annual privacy notice requirements arose out of the federal Gramm-Leach-Bliley Act (GLBA), which became effective in 1999.

In December 2015, Congress amended GLBA via the Fixing America's Surface Transportation Act (FAST), which eliminated the requirement for financial institutions to provide GBLA annual notices provided certain conditions were met.

In 2016, the National Association of Insurance Commissioners (NAIC) initiated efforts to clarify the applicability of the annual notice relief to insurance licensees through a model bulletin.

HB 1138 implements the NAIC model bulletin, which is attached on the back of this testimony for your reference.



**GRAMM LEACH BLILEY ACT ANNUAL PRIVACY NOTICES  
NAIC MODEL BULLETIN**

DATE: (Insert Date)

TO: All Insurers Licensed to Write Business in (Insert Name of State)

FROM: (Insert Name of Commissioner, Director or Superintendent)

RE: Gramm Leach Bliley Act Annual Privacy Notices

The purpose of this bulletin is to set forth the views of the [insert the name of the insurance department] regarding recent amendments to the federal Gramm-Leach-Bliley Act (GLBA) to eliminate the requirement for redundant GLBA annual privacy notices.

On Dec. 4, 2015, the Fixing America's Surface Transportation (FAST) Act was enacted into law and effective immediately. The FAST Act includes amendments to the GLBA to eliminate the requirement for financial institutions to provide GLBA annual notices provided certain conditions are met. The amendments eliminate a duplicative and costly notification requirement. Financial institutions continue to be required to provide initial privacy notices as required under the GLBA.

In line with the recent changes to the GLBA, this Bulletin is intended to clarify that a licensee of the insurance department, that is subject to the GLBA annual notice requirement, set forth in [insert citation to state regulation or statute corresponding to Section 6 of the *Privacy of Consumer Financial and Health information Regulation (#672)*], is not required to provide the annual privacy notice required under [insert citation to state regulation or statute corresponding to Section 6 of Model #672] provided the licensee:

- (i) Provides nonpublic personal information to nonaffiliated third parties only in accordance with [insert citation to state regulation or statute corresponding to Sections 15, 16 and 17 of Model #672]; and
- (ii) Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with [insert citation to state regulation or statute corresponding to Section 5 of Model #672] or [insert citation to state regulation or statute corresponding to Section 6 of Model #672].

At any time a licensee fails to comply with any of the criteria described in paragraph (i) or (ii), the licensee shall be required to provide the annual privacy notice required under [insert citation to state regulation or statute corresponding to Section 6 of Model #672].

Also all licensees shall continue to be required to provide GLBA initial privacy notices as required under [insert citation to state regulation or statute corresponding to Section 5 of Model #672].

APCI/American Property and Casualty Insurance Association

March 11, 2019

Senate Industry, Business, and Labor Committee

Support HB 1138

Chairman Klein and Members of the Committee,

Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCI) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCI represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCI members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

In December of 2015, as part of the Fixing America's Surface Transportation (FAST) Act (Public Law 114-94), Congress amended the Gramm Leach Bliley Act (GLBA) to exempt financial institutions from annual privacy notice obligations under certain circumstances. In 2016, the National Association of Insurance Commissioners (NAIC) initiated efforts to clarify the applicability of this annual notice relief for insurance licensees through a model bulletin and amendments to model regulation #672, "Privacy of Consumer Financial and Health Information Regulation" (Model #672). HB 1138 implements this FAST Act relief.

We believe the FAST Act amendments included in HB 1138 will streamline and simplify redundant and duplicative annual privacy notices thereby benefitting insurance licensees and their customers. For instance, a licensee would no longer be required to provide an annual notice so long as it has not changed the privacy policies and practices described in the most recent privacy notice and only provides nonpublic personal information to nonaffiliated third parties in accordance with certain provisions of the GLBA or implementing regulations. As such, consumers will benefit from having a better understanding as to when something in the insurance licensees' privacy policies and practices has changed and fewer paper notice obligations.

We urge you to support HB 1138. Please don't hesitate to reach out with any questions. Thank you.

Steve Schneider

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