
SENATE COMMITTEE ON INSURANCE

Senator Susan Rubio, Chair

2021 - 2022 Regular

Bill No:	AB 2372	Hearing Date:	June 22, 2022
Author:	Calderon		
Version:	April 7, 2022 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Brian Flemmer		

SUBJECT: Insurance: privacy notices

DIGEST: Requires an insurance institution or agent (insurer) to provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship, and would exempt insurers who do not share personal information for marketing purposes from this requirement, as long as additional information about consumer rights is included in the insurer's abbreviated annual notice.

ANALYSIS:

Existing law:

- 1) The Insurance Information and Privacy Protection Act (IIPPA), establishes standards for the collection, use, and disclosure of information gathered by insurers in connection with insurance transactions.
 - a) Requires an insurer to provide a written notice of information practices to all applicants or policyholders in connection with insurance transactions, as specified.
 - b) Gives insurers the option of providing a detailed notice or an abbreviated notice. The abbreviated notice (provided in almost all cases by insurers) informs consumers that personal information may be collected from persons other than the individual or individuals proposed for coverage, such information may be disclosed to third parties without authorization in certain circumstances, a right of access and correction exists with respect to all personal information collected, and the detailed notice will be provided to the applicant or policyholder upon request (Insurance Code Section 791.04).
 - c) If provided, the abbreviated notice must describe a reasonable means by which the consumer may obtain the more detailed notice (10 CCR Section 2689.7).
- 2) Allows an insurer to disclose personal or privileged information about an individual, which is collected or received in connection with an insurance transaction, if the disclosure complies with the provisions of Insurance Code Section 791.13. Pursuant to Insurance Code Section 791.13(k), an insurer may share personal or privileged information about an individual with an unaffiliated third party whose only use of the information will be in connection with the marketing of a product or service, as long as the individual is given an opportunity to opt out of this information-sharing.

- 3) Requires an insurer to provide a clear and conspicuous notice to its customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship (10 CCR Section 2689.6). This notice is in addition to the IIPPA notice described in #2 above but may be provided contemporaneously with the IIPPA notice.

This bill:

- 1) Requires an insurance institution or agent (insurer) to provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.
- 2) Relieves insurers of the aforementioned requirement, if all of the following apply:
 - a) The insurer does not share medical-record, personal or privileged information with a nonaffiliated third party for marketing purposes.
 - b) The insurer augments any abbreviated notice it provides to applicants and policyholders pursuant to Insurance Code Section 791.04 by including all of the following on that notice:
 - i) The web address where that insurer's complete notice of privacy policies and procedures may be found;
 - ii) A description of the rights established under Insurance Code Sections 791.08 and 791.09 and the manner in which those rights may be exercised (e.g., the right of an individual to request access to recorded personal information an insurer has on file about that individual; learn the identity of persons to whom that information was disclosed by the insurer during the two years immediately preceding that request; and learn the manner in which that individual may request correction, amendment, or deletion of that information; and the responsibility of an insurer to correct, amend, or delete personal information upon the request of the individual that information describes, as specified);
 - c) The insurer's policies and practices about disclosing personal or privileged information have not changed, relative to the last time the notice was provided.
- 3) Provides that an insurer is not required to provide a notice of privacy policies and procedures to a former customer with whom it no longer has a continuing relationship.
- 4) Clarifies that terms used in the bill are defined by reference to Section 2689.4 of Title 10 of the California Code of Regulations.

Background

According to the Author:

AB 2372 allows for California insurers, who do not share personal policyholder information to nonaffiliated third parties for marketing

purposes, to send out their privacy policies only if they have changed from the previous year. Currently, insurers are required to send privacy policies to policyholders annually, they must be posted online, and be made available at the request of the policyholder — therefore, this bill removes a redundancy. In addition, AB 2372 enhances the annual disclosures policyholders receive regarding their personal information, by requiring that insurers include a description of the rights policyholders have to request any personal information the insurer may have on file about them.

Certain portions of this bill codify existing regulations of the Insurance Commissioner, which require insurers to send detailed annual privacy notices to their customers (e.g. 10 CCR Sections 2689.6 and 2689.7). However, this bill deviates from existing regulations by exempting certain insurers from the annual privacy notice requirement in certain circumstances.

In order to be exempt from the requirement to send an annual privacy notice under the provisions of this bill, an insurer must refrain from sharing its customers' personal information with unaffiliated third parties for marketing purposes and must augment its IPPA notice to include a recitation of consumers' rights to request and correct information that an insurer has on file about them and to provide consumers with the web address where the insurer's full privacy policies and procedures may be accessed.

This bill is based loosely on amendments made to the federal Graham-Leach-Bliley Act (GLBA) by the federal Fixing America's Surface Transportation (FAST) Act in December, 2015. The FAST Act amendments eliminated the requirement that GLBA privacy notices be sent annually in most circumstances. An earlier version of this bill would have adopted the FAST Act amendments in California, without modification. However, that version generated concerns, because the FAST Act amendments were not intended to apply in states, like California, where consumers must be given a right to opt out of having their personal information shared with unaffiliated parties for marketing purposes.

In its current form, this bill requires insurers who share personal information in a manner that requires consumers to be offered an opt-out to continue sending annual privacy notices. Insurers who do not share personal information in a manner that requires consumers to be offered an opt-out will no longer be subject to an annual privacy notice requirement, but will be required to modify their abbreviated IPPA notices to include additional information intended to be helpful to consumers.

ARGUMENT IN SUPPORT:

The Personal Insurance Federation of California (PIFC), this bill's sponsor, writes:

AB 2372 will update California law to conform with the 2015 GLBA amendments and allow insurers to send notices on the privacy policy only when a change has been made to the privacy policy. The change touches only the paper notices and does not affect requirements ensuring that the notice is available online and at the request of the consumer, or the requirement to provide other annual notices.

ARGUMENT IN OPPOSITION:

The Consumer Federation of California (CFC) opposes this bill on the basis that consumers should be kept fully informed about their insurers' privacy policies. Referring to the provisions of this bill that exempt certain insurers from the requirement to send their customers detailed annual privacy notices, "CFC believes that these exemptions help to chip away at the fundamental protections that insurance customers benefit from and serve little other purpose than allowing the insurance industry to obscure their privacy practices."

SUPPORT:

Personal Insurance Federation of California (Sponsor)
American Council of Life Insurers
American Property Casualty Insurance Association
Association of California Life and Health Insurance Companies
Pacific Association of Domestic Insurance Companies
Western Insurance Agents Association

OPPOSITION:

Consumer Federation of California

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