

104TH CONGRESS
2D SESSION

H. R. 3930

To protect the personal privacy rights of insurance customers and claimants,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1996

Mr. TOWNS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect the personal privacy rights of insurance customers
and claimants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Insurance Claims Privacy Protection Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

Sec. 5. Limitations on disclosure of claims information to law enforcement agencies.

Sec. 6. Separation of the functions of a crime bureau from the functions of an insurance data support organization.

Sec. 7. Coordination with State law.

Sec. 8. Enforcement.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) property and casualty insurers annually col-
4 lect information pertaining to the claims filed by
5 millions of policyholders and other individuals;

6 (2) this information is generally provided to in-
7 dustry organizations for the purpose of assisting in-
8 surers to quickly pay a claim or, alternatively, to de-
9 termine whether a pattern of claim filings exists that
10 warrants further investigation;

11 (3) there is a legitimate need for insurers to
12 pool claims information among themselves and to
13 work with law enforcement agencies in order to as-
14 sure the integrity of the claims decisionmaking pro-
15 cess;

16 (4) while the insurance industry has historically
17 taken strong and effective measures to prevent the
18 improper disclosure of personal claims information
19 to law enforcement agencies, it is now preparing to
20 eliminate those protections and provide individual
21 claims information on innocent individuals, as well

1 as their doctors and lawyers, to law enforcement
2 agencies;

3 (5) although insurance is generally regulated by
4 the individual States pursuant to the Act of March
5 9, 1945 (referred to as the “McCarran-Ferguson
6 Act”), and despite the fact that the National Asso-
7 ciation of Insurance Commissioners has proposed
8 model privacy legislation which has been adopted in
9 certain States and addresses the provision of individ-
10 ual information to law enforcement agencies, the As-
11 sociation’s model legislation has not been enacted in
12 most of the States and has not prevented the insur-
13 ance industry from proceeding with its current
14 plans;

15 (6) the unfettered disclosure of personal claims
16 information by insurers to law enforcement agencies
17 on innocent individuals violates fundamental prin-
18 ciples of individual privacy and may result in intimi-
19 dating individuals in exercising their rights to file
20 claims; and

21 (7) in the absence of effective State regulation,
22 a uniform rule, established through congressional en-
23 actment, is the only method for assuring the protec-
24 tion of personal privacy rights.

1 **SEC. 3. PURPOSES.**

2 The purposes of this Act are—

3 (1) to protect the personal privacy rights of in-
4 surance customers and claimants by making certain
5 that property and casualty insurers do not improper-
6 ly provide personal information about innocent in-
7 surance claimants to law enforcement agencies;

8 (2) to establish clear rules for separating the
9 operation of an insurance crime bureau from the op-
10 eration of an insurance data support organization in
11 order to prevent the inappropriate use of insurance
12 claims information; and

13 (3) to establish strong and effective remedies
14 for violations of this Act.

15 **SEC. 4. DEFINITIONS.**

16 As used in this Act:

17 (1) **ALL CLAIMS DATABASE.**—The term “all
18 claims database” means any data collection system,
19 electronic or manual, which obtains information
20 about property and casualty insurance claims with-
21 out regard to whether there is a reasonable belief
22 that any specific claimant has engaged in any illegal
23 or fraudulent act.

24 (2) **CRIME BUREAU.**—The term “crime bureau”
25 means any nongovernmental organization which, in
26 whole or in part, (A) investigates potentially illegal

1 or fraudulent acts with regard to property and cas-
2 ualty insurance claims, or (B) shares information
3 about such claims with any law enforcement agency,
4 absent a subpoena or court order; except that the
5 term does not include the activities of a property
6 and casualty insurer.

7 (3) INSURANCE CLAIMS DATA SUPPORT ORGANI-
8 ZATION.—The term “insurance claims data support
9 organization” means any nongovernmental organiza-
10 tion which regularly engages, in whole or in part, in
11 the practice of assembling or collecting claims infor-
12 mation about persons for the primary purpose of
13 providing information to property and casualty in-
14 surers, self-insurers, or the administrators of an in-
15 surance program; except that the term does not
16 include the activities of a property and casualty in-
17 surer.

18 (4) PROPERTY AND CASUALTY INSURANCE.—
19 The term “property and casualty insurance” means
20 every line of insurance, except life insurance and
21 health insurance, and includes, but is not limited to,
22 automobile insurance, homeowners insurance, and
23 workers’ compensation insurance.

24 (5) PROPERTY AND CASUALTY INSURER.—The
25 term “property and casualty insurer” means any

1 person engaged in the business of insurance who
2 provides property and casualty insurance, either di-
3 rectly or through agents or brokers.

4 **SEC. 5. LIMITATIONS ON DISCLOSURE OF CLAIMS INFOR-**
5 **MATION TO LAW ENFORCEMENT AGENCIES.**

6 (a) **DISCLOSURE BY PROPERTY AND CASUALTY IN-**
7 **SURER AND CRIME BUREAU.**—No property and casualty
8 insurer or crime bureau may disclose to a law enforcement
9 agency any information pertaining to a claim unless it is
10 doing so—

11 (1) to protect the interests of the insurer or
12 crime bureau in preventing or prosecuting the per-
13 petuation of fraud upon it; or

14 (2) if the insurer or crime bureau reasonably
15 believes that illegal activities have been conducted by
16 the individual.

17 (b) **DISCLOSURE BY DATA SUPPORT ORGANIZA-**
18 **TION.**—No insurance data support organization may dis-
19 close to a law enforcement agency any information per-
20 taining to a claim unless it is doing so—

21 (1) to protect the interests of the organization
22 in preventing or prosecuting the perpetuation of
23 fraud upon it; or

24 (2) to respond to a subpoena or court order.

1 **SEC. 6. SEPARATION OF THE FUNCTIONS OF A CRIME BU-**
2 **REAU FROM THE FUNCTIONS OF AN INSUR-**
3 **ANCE DATA SUPPORT ORGANIZATION.**

4 (a) IN GENERAL.—An insurance data support orga-
5 nization may establish and operate an all claims data base
6 and may establish a system for providing claims informa-
7 tion to a crime bureau for the purpose of detecting fraudu-
8 lent or other illegal activities pertaining to specific claims
9 or to specific categories of claims where fraudulent or
10 other illegal activities are reasonably believed to have oc-
11 curred; but an insurance data support organization may
12 not engage in the activities of a crime bureau.

13 (b) CRIME BUREAU.—A crime bureau may engage in
14 activities designed to prevent, suppress, and prosecute
15 fraud, including, when otherwise authorized by law, the
16 conduct of appropriate investigations of claimants and col-
17 laborative activities with law enforcement agencies; but a
18 crime bureau may not operate an all claims data base or
19 collect claims information, either directly or indirectly,
20 that may result in the establishment or operation of such
21 a data base.

22 **SEC. 7. COORDINATION WITH STATE LAW.**

23 (a) IN GENERAL.—Nothing in this Act shall be read
24 as prohibiting any State from enacting legislation estab-
25 lishing more stringent protections than are provided in

1 this Act for the privacy of information contained in prop-
2 erty and casualty insurance claims.

3 (b) STATE CERTIFICATION.—Without regard to the
4 provisions of section 8, any State may certify to the Attor-
5 ney General of the United States that it has established,
6 through law or regulation, the same protections and en-
7 forcement procedures that are incorporated in this Act.
8 Upon approval of that certification by the Attorney Gen-
9 eral, and publication of that certification in the Federal
10 Register, enforcement of this Act shall be solely pursuant
11 to that certification. The Attorney General may revoke a
12 certification for any material breach of its provisions.

13 **SEC. 8. ENFORCEMENT.**

14 (a) INJUNCTION.—Any violation of this Act may be
15 enjoined in any Federal district court without regard to
16 any jurisdictional amount otherwise required. Such an in-
17 junctive action may be brought by the Attorney General
18 or by any private party.

19 (b) CIVIL PENALTY.—Any violation of this Act may
20 also be subject to a civil penalty of not more than \$10,000.

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