

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 349\***

Short Title: Insurance Information Privacy-AB.

(Public)

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Sponsors: Representatives Hurley and Dockham (Primary Sponsors).

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Referred to: Insurance.

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March 1, 2001

A BILL TO BE ENTITLED

1 AN ACT TO MAKE THE NORTH CAROLINA INSURANCE INFORMATION AND  
2 PRIVACY PROTECTION ACT COMPLY WITH THE CONSUMER  
3 INFORMATION PRIVACY REQUIREMENTS IN THE FEDERAL GRAMM-  
4 LEACH-BLILEY ACT, PUBLIC LAW 106-102.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 58-39-10 reads as rewritten:

7 "**§ 58-39-10. Scope.**

8 (a) The obligations imposed by this Article shall apply to those insurance  
9 institutions, agents, or insurance-support organizations that, on or after July 1, 1982:

10 (1) In the case of ~~life or accident and health~~ life, health, or disability  
11 insurance:

12 a. Collect, receive, or maintain information in connection with  
13 insurance transactions that pertains to natural persons who are  
14 residents of this State; or

15 b. Engage in insurance transactions with applicants, individuals, or  
16 policyholders who are residents of this State; and

17 (2) In the case of property or casualty insurance:

18 a. Collect, receive, or maintain information in connection with  
19 insurance transactions involving policies, contracts, or  
20 certificates of insurance delivered, issued for delivery, or  
21 renewed in this State; ~~or~~

22 b. Engage in insurance transactions involving policies, contracts,  
23 or certificates of insurance delivered, issued for delivery, or  
24 renewed in this ~~State~~ State; or

25 c. Engage in transactions involving mortgage guaranty insurance  
26 where the mortgage guaranty policies, contracts, or certificates  
27

1                   of insurance are delivered, issued for delivery, or renewed in  
2                   this State.

3       (b)     The rights granted by this Article shall extend to:

4           (1)    In the case of ~~life or accident and health~~ life, health, or disability  
5           insurance, the following persons who are residents of this State:

6           a.     Natural persons who are the subject of information collected,  
7           received, or maintained in connection with insurance  
8           transactions; and

9           b.     Applicants, individuals, or policyholders who engage in or seek  
10           to engage in insurance transactions;

11          (2)    In the case of property or casualty insurance, the following persons:

12          a.     Natural persons who are the subject of information collected,  
13          received, or maintained in connection with insurance  
14          transactions involving policies, contracts, or certificates of  
15          insurance delivered, issued for delivery, or renewed in this  
16          State; and

17          b.     Applicants, individuals, or policyholders who engage in or seek  
18          to engage in (i) insurance transactions involving policies,  
19          contracts, or certificates of insurance delivered, issued for  
20          delivery, or renewed in this State. State; or (ii) mortgage  
21          guaranty insurance transactions involving policies, contracts, or  
22          certificates of insurance delivered, issued for delivery, or  
23          renewed in this State.

24       (c)     For purposes of this section, a person shall be considered a resident of this  
25       State if the person's last known mailing address, as shown in the records of the  
26       insurance institution, agent, or insurance-support organization, is located in this State.

27       (d)     Notwithstanding subsections (a) and (b) of this section, this Article shall not  
28       apply to information collected from the public records of a governmental authority and  
29       maintained by an insurance institution or its representatives for the purpose of insuring  
30       the title to real property located in this State."

31       **SECTION 2.** G.S. 58-39-15(1) reads as rewritten:

32       "(1)    "Adverse underwriting decision" means:

33           a.     Any of the following actions with respect to insurance  
34           transactions involving insurance coverage that is individually  
35           underwritten:

36           1.     A declination of insurance coverage;

37           2.     A termination of insurance coverage;

38           3.     Failure of an agent to apply for insurance coverage with  
39           a specific insurance institution that an agent represents  
40           and that is requested by an applicant;

41           4.     In the case of a property or casualty insurance coverage:

42           I.     Placement by an insurance institution or agent of  
43           a risk with a residual market ~~mechanism~~ or  
44           mechanism, an unauthorized insurer, or an

insurance institution that specializes in  
substandard risks; or

II. The charging of a higher rate on the basis of  
 information that differs from that which the  
 applicant or policyholder furnished; or

5. In the case of a ~~life or accident and health~~-life, health, or  
 disability insurance coverage, an offer to insure at higher  
 than standard rates.

b. Notwithstanding subdivision (1)a of this section, the following  
 actions shall not be considered adverse underwriting decisions,  
 but the insurance institution or agent responsible for their  
 occurrence shall nevertheless provide the applicant or  
 policyholder with the specific reason or reasons for their  
 occurrence:

1. The termination of an individual policy form on a class  
 or statewide basis;

2. A declination of insurance coverage solely because such  
 coverage is not available on a class or statewide basis; or

3. The rescission of a policy."

**SECTION 3.** G.S. 58-39-15(9) reads as rewritten:

"(9) "Individual" means any natural person who:

a. In the case of property or casualty insurance, is a past, present,  
 or proposed named insured or certificate holder;

b. In the case of life or accident and health insurance, is a past,  
 present, or proposed principal insured or certificate holder;

c. Is a past, present or proposed policy owner;

d. Is a past or present applicant;

e. Is a past or present claimant; or

f. Derived, derives, or is proposed to derive insurance coverage  
 under an insurance policy or certificate subject to this  
~~Article.~~Article; or

g. Is the subject of personal information collected or maintained  
 by an insurance institution, agent, or insurance-support  
 organization in connection with mortgage guaranty insurance."

**SECTION 4.** G.S. 58-39-25 reads as rewritten:

**"§ 58-39-25. Notice of insurance information practices.**

(a) An insurance institution or agent shall provide a notice of information  
 practices to all applicants or policyholders in connection with insurance transactions as  
 provided in this section:

(1) In the case of an application for insurance a notice shall be provided no  
 later than:

a. At the time of the delivery of the insurance policy or certificate  
 when personal information is collected only from the applicant  
 or from public records; or

- 1                   b.       At the time the collection of personal information is initiated  
2                   when personal information is collected from a source other than  
3                   the applicant or public records;
- 4           (2)       In the case of a policy ~~renewal, that has been issued,~~ a notice shall be  
5                   provided ~~no later than the policy renewal date, except that no notice~~  
6                   ~~shall be required in connection with a policy renewal if:~~
- 7                   a.       ~~Personal information is collected only from the policyholder or~~  
8                   ~~from public records; or~~
- 9                   b.       ~~A notice meeting the requirements of this section has been~~  
10                   ~~given within the previous 24 months; not less than annually~~  
11                   ~~while the policy is in force; or~~
- 12           (3)       In the case of a policy reinstatement or change in insurance benefits, a  
13                   notice shall be provided no later than the time a request for a policy  
14                   reinstatement or change in insurance benefits is received by the  
15                   insurance ~~institution, except that no notice shall be required if personal~~  
16                   ~~information is collected only from the policyholder or from public~~  
17                   ~~records. institution.~~
- 18       (b)       The notice required by subsection (a) of this section shall be in writing and  
19       shall state:
- 20           (1)       Whether personal information may be collected from persons other  
21                   than the individual or individuals proposed for ~~coverage; coverage.~~
- 22           (2)       The types of personal information that may be collected and the types  
23                   of sources and investigative techniques that may be used to collect  
24                   such ~~information; information.~~
- 25           (3)       The types of disclosures identified in subsections (2), (3), (4), (5), (6),  
26                   (9), (11), (12), and (14) of G.S. 58-39-75 and the circumstances under  
27                   which such disclosures may be made without prior authorization:  
28                   Provided, however, only those circumstances need be described that  
29                   occur with such frequency as to indicate a general business  
30                   ~~practice; practice.~~
- 31           (4)       A description of the rights established under G.S. 58-39-45 and  
32                   58-39-50 and the manner in which such rights may be ~~exercised; and~~  
33                   ~~exercised.~~
- 34           (5)       That information obtained from a report prepared by an  
35                   insurance-support organization may be retained by the  
36                   insurance-support organization and disclosed to other persons.
- 37           (6)       The policies and practices of the insurance institution or agent with  
38                   respect to disclosing nonpublic personal information to nonaffiliated  
39                   third parties, other than agents of the insurance institution or agent,  
40                   consistent with Section 502 of P.L. 106-102, the Gramm-Leach-Bliley  
41                   Act, and including:
- 42                   a.       The categories of persons to whom the information is or may be  
43                   disclosed, other than the persons to whom the information may

1 be provided pursuant to Section 502(e) of P.L. 106-102, the  
2 Gramm-Leach-Bliley Act.

3 b. The policies and practices of the insurance institution or agent  
4 with respect to disclosing of nonpublic personal information of  
5 persons who have ceased to be customers of the insurance  
6 institution or agent.

7 (7) The policies that the insurance institution or agent maintains to protect  
8 the confidentiality and security of nonpublic personal information in  
9 accordance with Section 501 of P.L. 106-102, the Gramm-Leach-  
10 Bliley Act.

11 (8) The disclosures required, if any, under Section 603(d)(2)(A)(iii) of the  
12 Fair Credit Reporting Act.

13 (c) ~~In lieu of the notice prescribed in subsection (b) of this section, the insurance~~  
14 ~~institution or agent may provide an abbreviated notice informing the applicant or~~  
15 ~~policyholder that:~~

16 (1) ~~Personal information may be collected from persons other than the~~  
17 ~~individual or individuals proposed for coverage;~~

18 (2) ~~Such information, as well as other personal or privileged information~~  
19 ~~subsequently collected by the insurance institution or agent, in certain~~  
20 ~~circumstances, may be disclosed to third parties without authorization;~~

21 (3) ~~A right of access and correction exists with respect to all personal~~  
22 ~~information collected; and~~

23 (4) ~~The notice prescribed in subsection (b) of this section will be furnished~~  
24 ~~to the applicant or policyholder upon request.~~

25 For the purposes of this section, 'applicant' or 'policyholder' includes a person who  
26 applies for or obtains coverage under a group insurance contract, regardless of whether  
27 that person's coverage is individually underwritten. An insurance institution or agent  
28 that does not disclose personal information about an applicant or policyholder under a  
29 group insurance contract, as permitted by G.S. 58-39-75(11), may satisfy any notice  
30 requirement that otherwise exists under this section with respect to the applicant or  
31 policyholder by providing a notice of information practices to the holder of the group  
32 insurance contract.

33 (d) The obligations imposed by this section upon an insurance institution or agent  
34 may be satisfied by another insurance institution or agent authorized to act on its  
35 behalf."

36 **SECTION 5.** Article 39 of Chapter 58 of the General Statutes is amended by  
37 adding a new section to read:

38 **"§ 58-39-26. Exception for title insurance.**

39 A title insurance company shall give notice of its insurance information practices  
40 under G.S. 58-39-25 only at the time the final policy of title insurance is issued and is  
41 not subject to any annual notice requirement thereafter."

42 **SECTION 6.** G.S. 58-39-75(1) reads as rewritten:

43 "(1) With the written authorization of the individual, provided:

- 1 a. If such authorization is submitted by another insurance  
2 institution, agent, or insurance-support organization, the  
3 authorization meets the requirements of G.S. 58-39-35; or  
4 b. If such authorization is submitted by a person other than an  
5 insurance institution, agent, or insurance-support organization,  
6 the authorization meets the requirements of G.S. 58-39-35 and  
7 is:  
8 1. Dated;  
9 2. Signed by the individual; and  
10 3. Obtained one year or less ~~prior to~~ before the date a  
11 disclosure is sought pursuant to this paragraph; or".

12 **SECTION 7.** G.S. 58-39-75(18) reads as rewritten:

13 "(18) To a lienholder, mortgagee, assignee, lessor, or other person shown on  
14 the records of an insurance institution or agent as having a legal or  
15 beneficial interest in a policy of ~~insurance; provided that~~ insurance  
16 only if:

- 17 a. No medical record information is disclosed unless the  
18 disclosure would otherwise be permitted by this section; and  
19 b. ~~the~~ The information disclosed is limited to that which is  
20 reasonably necessary to permit such person to protect its  
21 interest in such policy; or".

22 **SECTION 8.** Article 39 of Chapter 58 of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 58-39-76. Limits on sharing account number information for marketing**  
25 **purposes.**

26 (a) General Prohibition on Disclosure of Account Numbers. – An insurance  
27 institution, insurance agent, or insurance-support organization shall not disclose, other  
28 than to a consumer reporting agency, an account number or similar form of access  
29 number or access code for a credit card account, deposit account, or transaction account  
30 of a consumer to any nonaffiliated third party for use in telemarketing, direct mail  
31 marketing, or other marketing through electronic mail to the consumer.

32 (b) Definitions.—As used in this section:

- 33 (1) "Account number" means an account number, or similar form of  
34 access number or access code, does not include a number or code in an  
35 encrypted form, as long as the insurance institution, insurance agent, or  
36 insurance-support organization does not provide the recipient with a  
37 means to decode the number or code.  
38 (2) "Transaction account" means an account other than a deposit account  
39 or credit card account. A transaction account does not include an  
40 account to which third parties cannot initiate charges."

41 **SECTION 9.** If any section or provision of this act is declared  
42 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the  
43 validity of the act as a whole or any part other than the part so declared to be  
44 unconstitutional, preempted, or otherwise invalid.

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**SECTION 10.** This act is effective when it becomes law.