



**Leah J. Walters**

*Vice President & Chief Deputy, State Relations*

February 19, 2020

The Honorable Senator Delores G. Kelley, Chair  
The Honorable Brian J. Feldman, Vice-Chair  
Senate Finance Committee  
3 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: ACLI Opposes Senate Bill 957 - Maryland Online Consumer Protection Act**

Dear Chairwoman Kelley and Vice-Chair Feldman:

Thank you for the opportunity to comment on Senate Bill 957 (S. 957) on behalf of the American Council of Life Insurers. The American Council of Life Insurers (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 280 member companies represent 94 percent of industry assets in the United States. Specifically, in Maryland, 235 companies account for 94% of all life insurance premiums.

The insurance industry is a consumer privacy leader in support of clear obligations in the appropriate collection, use and sharing of sensitive personal information. The financial services sector has and continues to respect consumer privacy. Insurers have ably managed consumers' sensitive medical and financial data for well over a century. Insurers must collect and use personal information to perform essential business functions – for example, to underwrite applications for new insurance policies, to pay claims submitted under these policies, and to provide longevity protection through retirement products. Our industry's commitment to appropriate use and safeguarding of consumer information has helped establish what has become a comprehensive federal and state regulatory framework governing the use and disclosure of personal information for the insurance industry. Therefore, the financial services industry would be **uniquely** affected by the establishment of new general privacy requirements at the individual state level. Senate Bill 957 would add to the mix of existing privacy laws for insurers—resulting in additional complexities and expenses of implementation and will inevitably result in conflicting scopes, definitions, notice requirements and consumer rights.

As currently drafted, ACLI opposes S. 957 and suggests several amendments if it were to pass. The insurance industry is already subject to multiple layers of privacy regulation in the form of the Gramm-Leach-Bliley Act ("GLBA"), the Privacy of Consumer Financial and Health Regulation, the Financial

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Information Protection Act, the Insurance Information and Privacy Protection Act, the Fair Credit Reporting Act (FCRA) and Health Insurance Portability and Accountability Act (“HIPAA”). Senate Bill 957 does not recognize these laws or Maryland’s comprehensive insurance privacy laws and should be amended to provide an exclusion for insurers who are already complying with such laws.

Senate Bill 957 includes many provisions from the California Consumer Privacy Act of 2018 (CCPA), a comprehensive data privacy law which grants consumers sweeping new rights to govern use of their personal information. The California law was passed in four days, behind the scenes, with no public input. It was rushed and the result is evident. Some of the purported consumer protection disclosure requirements render consumers’ personal information even more vulnerable. The severe impact to entities forced to completely overhaul their business practices in order to comply with the law was not given much, if any, thought. As a result, there were nearly 40 bills proposed in California last session by various interest groups to attempt to fix the law. CCPA was amended during the final hours of the California legislative session last September. Still, both legislators and the consumer advocate proponents of the legislation are seeking additional significant changes both by a comprehensive ballot initiative as well as legislation in 2020.

Senate Bill 957 would create a new opt-in/opt out structure that is ambiguous and would have unintended results absent modification. As such, it should be amended so that it reflects the well-established and perfected approaches already in place under the GLBA, HIPAA and FCRA to create a straightforward list of circumstances in which opt-out is required. Even the new CCPA framework recognizes the value of incorporating these well-established structures.

Senate Bill 957 does not include any of the business to business personal information exemptions that California passed in September of 2019. While the legislation contains an employment exemption for personal information a business collects during the employment process, it is extremely limited and may inadvertently impair the offering of employee benefit programs, among other impacts. It also does not include any of the California Privacy Rights Act of 2020 amendments which are critical to improving the bill.

Finally, S. 957 includes a private cause of action for violation of its provisions. We recommend eliminating this provision as a private right of action undermines agency enforcement, results in disparate outcomes for consumers and hinders innovation and consumer choice. [Additional amendments include effective date, contents of the notice itself, consumer requests and enforcement.]

Maryland may want to consider taking action similar to a recently proposed resolution in Arizona, [Resolution 2013](#), which advocates for a single, comprehensive federal standard for consumer data privacy regulation.

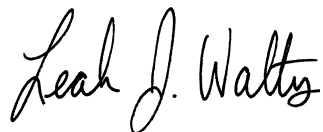
Consumers and companies need privacy requirements that are consistent and equivalent across state borders, provide equal protections to all consumers regardless of where they are located, support growth and innovation, and which provide legal transparency. Differing privacy standards will lead to consumer confusion, differing consumer rights and protections, obstruct the flow of information, and impede interstate commerce. Differing state privacy approaches are confusing and frustrating to consumers, who will now face different rights to control their personal information based upon where they live or with whom they are doing business. These conflicts must be taken into consideration as you work to develop comprehensive obligations regarding the use of personal information which applies equally and uniformly to all industries.

For these reasons, ACLI and its member companies oppose Senate Bill 957 and urge an unfavorable vote.

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ACLI and its member companies are committed to working with this committee on trying to solve some of these complexities, to find solutions that protect consumer privacy and, at the same time, enable innovation and business growth and opportunities for the State of Maryland.

Sincerely,

A handwritten signature in black ink that reads "Leah J. Walters". The signature is written in a cursive style with a large, stylized initial "L".

Leah J. Walters