

STATE FARM INSURANCE COMPANIES

TESTIMONY TO THE HOUSE ECONOMIC MATTERS COMMITTEE RE HOUSE BILL 148 (COMMERCIAL LAW – PERSONAL INFORMATION PROTECTION ACT – REVISIONS)

JANUARY 27, 2021

State Farm Insurance Companies opposes the changes to §14-3504(b) and (f) in HB148 (Commercial Law – Personal Information Protection Act – Revisions) due to the following concerns, and respectfully requests that the Committee strike the changes to §14-3504(b) and (f) from the bill.

- Individual Notice Tied to Notice of the Breach, Not Completion of Investigation. Current law allows a business to complete an appropriate investigation of the breach to determine if it creates a likelihood that an individual's personal information has been compromised. HB148 would require notice to the individual to be given within 45 days after the business discovers or is notified of the breach unless the business reasonably determines in that period that the breach does not create a likelihood that the personal information of the individual will be misused. An investigation of a breach entails a significant amount of fact finding and analysis and 45 days is not a sufficient amount of time to make a determination of the likelihood that personal information was compromised. Accordingly, HB148 will result in unnecessary notices being sent even when a breach does not actually threaten the compromise of personal information, simply because it does not allow time for a proper investigation to be conducted.
- Presumption of Breach. The current law does not presume that a breach results in the compromise of personal information, instead allowing the business to complete an investigation to determine if the breach created a likelihood that an individual's personal information has or will be misused before notice must be given to individuals. HB148 would create a presumption that a breach results in the compromise of an individual's information and requires notice unless the company determines that the breach did not result in a reasonable likelihood that an individual's information was compromised. The law should not presume a breach results in a compromise of information and should allow an investigation to make this determination, and only then require individual notice.
- Requirement to Send Notice to Major Print or Broadcast Networks. The law should allow, but not require, a business to notify the public of a breach through major print or broadcast networks. Additionally, the meaning and application of "geographic areas where individuals affected by the breach likely reside" is ambiguous and difficult to understand.