

**Testimony of
American Property Casualty Insurance Association (APCIA)
before the
Senate Finance Committee
SENATE BILL 201- Commercial Law – Personal Information Protection Act - Revisions**

February 12, 2020

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. APCIA appreciates the opportunity to provide written comments in opposition of Senate Bill 201. APCIA strongly opposes Senate Bill 201, which proposes amendments to the breach notification requirements of the Maryland Personal Information Protection Act. These amendments are inflexible and have the potential to erode existing consumer protections.

State breach notification laws must strike the appropriate balance between providing meaningful notice guidelines that inform consumers when there is a risk of harm while avoiding the potential to desensitize consumers. As drafted, SB 201 would expand the definition of “Personal Information” to include data elements such as “Activity-Tracking Data” and “Nonpublic Social Media Information.” These data elements are extremely broad and could include information that poses no risk of harm to a consumer. For example, if there is a device capable of recording a consumer’s vehicle speed, how would a breach of that data cause consumer harm or require swift consumer action? In addition, we are unaware of any state that includes these data elements in their breach notification law. These deviations further perpetuate the current patchwork of state laws.

SB 201 would also amend the Personal Information Protection Act to reduce the timeframe within which a business must notify consumers from 45-days following an investigation to 30-days following discovery or notification of a breach. Following a breach, businesses must assess the situation, prevent any potential damage, and perform a diligent investigation to understand the impact and whether any consumers will be affected. Without meaningful time to investigate, a business will be forced to over notify, which could inundate consumers with notices. As such, consumers will likely become desensitized and may ignore significant notices that require consumer action.

Additionally, the method for providing notice in the event of a breach should be flexible. The existing delivery framework in the Personal Information Protection Act achieves this necessary flexibility; however, SB 201 would require e-mail notices, website posting, and notification to major media outlets. As a practical matter, if just one Maryland consumer is impacted by a breach that triggers a notification obligation, the business would be required to post the breach notice on its website and notify major statewide media. This requirement could unnecessarily create consumer confusion and concern. For the reasons stated above, APCIA opposes SB 201 and urges an unfavorable vote.