

December 5, 2016

Commissioner David Mattax
Texas Department of Insurance
333 Guadalupe, Austin, TX 78701

Via E-mail

Re: NAMIC support for proposed amendments to 28 TAC §22.9

Commissioner Mattax:

NAMIC appreciates the opportunity to provide comment on the proposed changes to 28 TAC §22.9. We support this regulatory change.

In December 2015, the President signed into law the Fixing America's Surface Transportation (FAST) Act (Public Law 114-94), which included amendments to the Gramm Leach Bliley Act (GLBA) that eliminate financial institutions' obligation to provide duplicative annual privacy notices under certain circumstances. The amendments create an exemption to the annual notice requirement for a financial institution that has not changed its privacy policies and practices described in its most recent privacy notice and that only provides nonpublic personal information to nonaffiliated third parties in accordance with certain provisions of the GLBA or implementing regulations.

We strongly believe the recent bi-partisan amendments to the GLBA will streamline and simplify annual privacy notice requirements thereby benefiting insurance licensees and their customers. Fewer paper notice obligations will have a positive environmental impact and consumers will have a better understanding as to when something in the insurance licensees' privacy policies have changed.

NAMIC also appreciates the permissive nature of the rule as drafted. Some of our members report they do not plan on availing themselves of the provisions of the proposed regulation. We expect that may change as more states move to adopt this proposed amendment.

Following enactment of the FAST Act, various federal financial regulators took measures to incorporate these changes in their GLBA regulations or examination protocols. Similarly, the National Association of Insurance Commissioners' (NAIC) Privacy Disclosures (D) Working Group (Working Group), chaired by Commissioner Kreidler, implemented measures to clarify that, like other financial institutions, a licensee of a state insurance department that meets the specified requirements, is not obligated to provide annual GLBA privacy notices.

On August 18, 2016, the Working Group adopted amendments to the “Privacy of Consumer Financial Health Information Regulation” model law (Model #672) to implement the FAST Act Amendments. These amendments await adoption by the D Committee and full NAIC while the Working Group considers additional amendments to Model #672. In the meantime, however, the Working Group adopted a model bulletin for states to consider issuing, which sets forth the views of the insurance regulator regarding insurance licensees’ ability to rely on the FAST Act amendments to the GLBA. This bulletin was adopted by the NAIC’s Executive Committee and Plenary on August 29, 2016, and has already been issued in Rhode Island and Arkansas.

Please do not hesitate to contact me if you have questions. Thanks for your considerations.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'P' followed by 'aul' and 'Martin' written in a cursive script.

Paul Martin
Director-State Affairs
Southwest Region