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## INSURANCE: PRIVACY REQUIREMENTS

Senate Bill 431 (Substitute H-1)  
Sponsor: Sen. Bill Bullard

Addendum to SFA Analysis (5-22-01)

Senate Committee: Financial Services  
House Committee: Insurance and  
Financial Services

### ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SB 431 DATED 5-15-01:

#### *HOUSE COMMITTEE ACTION:*

The House Committee on Insurance and Financial Services adopted a substitute, H-1, which differs from the Senate-passed version of the bill in the following ways:

Both versions of Senate Bill 431 would change the definition of “control” given in the Insurance Code of 1956 to include a specific meaning of the term that would apply to the act’s provisions for privacy of financial information and for sale of insurance by a lender. The House version of the bill would eliminate one of the possible meanings of the term “control” included in the Senate version—namely: for a state or federal credit union, any outstanding ownership in a credit union service organization that is 67 percent owned by credit unions.

Both versions of Senate Bill 431 would define “customer,” as used in the privacy of financial information chapter of the act, as a consumer who had a customer relationship with a licensee. The Senate version would exclude from this definition a beneficiary or claimant under a policy of insurance solely by virtue of his or her status as a beneficiary or claimant. The House version would specify instead that the term would not include an individual solely because he or she was one of the following:

- a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;
- covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or
- a beneficiary or claimant under a policy of insurance.

Both versions of Senate Bill 431 would state that any violation of the requirements concerning the privacy of financial information in the act or any violation of the rules promulgated in accordance with those requirements would be an unfair method of competition and an unfair or deceptive act or practice. The Senate version of the bill would refer explicitly to a section of the current law that deals with unfair methods of competition and deception. The

Senate Bill 431 (5-22-01)

House version of the bill would specify that such violations were unfair methods of competition and unfair or deceptive acts or practices *in the business of insurance*.

**SUGGESTED AMENDMENTS:**

The American Association of Retired Persons has suggested amendments that would:

- require insurance companies to assume that individual consumers do not want their nonpublic personal financial information disclosed to nonaffiliated third parties unless they explicitly took measures to *opt in* to the company’s information sharing practices; and
- require insurance companies to send an opt out notice in its own mailing and refine the definition of “clear and conspicuous” to help ensure that consumers understand the notice.

**POSITIONS:**

The Office of Financial and Insurance Services supports the bill. (5-17-01)

The Alliance of American Life Insurers supports the bill. (5-17-01)

The American Association of Retired Persons supports the bill with its suggested amendments. (5-17-01)

The American Council of Life Insurers supports the bill. (5-17-01)

The American Insurance Association supports the bill. (5-17-01)

Citizens Insurance Company of America supports the bill. (5-17-01)

Manulife Financial Corporation supports the bill. (5-17-01)

Prudential Life Insurance Company of America supports the bill. (5-17-01)

Senate Bill 431 (5-22-01)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.