

December 3, 2015

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 Thomas P. O'Neill, Jr. Federal Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the National Association of Insurance Commissioners (NAIC)¹, we write today in opposition to HR 2205, the “Data Security Act of 2015”, which will severely undermine our ability to protect insurance consumers in all states.

Insurance companies are subject to strict regulation by our departments, and one of our primary responsibilities is to protect policyholders by ensuring these companies are taking necessary steps to safeguard the many kinds of highly sensitive customer data they collect and retain. State insurance regulators currently have a number of regulatory tools in addition to state data security laws to protect consumers from breaches of insurers.

HR 2205 would hamstring our authority to protect policyholders on several levels. The bill would not only frustrate the existing regulatory framework developed over years of experience at the state level, it would also prevent us and our state legislatures from imposing any additional requirements or prohibitions with respect to the responsibilities of any person to protect or safeguard information on the front-end or to investigate and mitigate on the back-end following a breach.

In addition to the explicit pre-emption of existing and future state laws passed by our legislatures or regulations issued by our departments, the legislation would require enforcement of federal standards to be conducted on a nationwide basis by a single state insurance regulator. Under current laws and regulations, if policyholders from one state are affected by a breach at an insurer domiciled in another state, both commissioners are notified and work with the company to ensure all policyholders are appropriately notified and protected moving forward, regardless of where they live. Under HR 2205, only one regulator would have authority to require mitigation for policyholders from a breached insurer. This could leave consumers less protected, and is fundamentally at odds with the strong existing state-

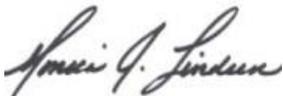
¹ Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

based regulatory regime for insurance, which recognizes that those insurance regulators that have expertise and experience with a local insurance market are best positioned to protect a state's insurance consumers. For example, today any state insurance regulator with an affected consumer in their state has authority to conduct an exam of the insurer to ensure consumers are appropriately protected. If this legislation were to pass, 49 of 50 states would be prohibited from protecting their own state's policyholders.

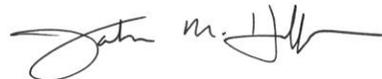
As you consider HR 2205 or other proposed federal legislation for data security or breach notification, any protections afforded consumers by federal law should be a floor, not a ceiling, and enforcement power should remain closest to those harmed and not diminish the important role states already play in protecting residents from data breaches and identity theft. Unless significant changes are made to ensure that state officials can continue working in the best interests of insurance consumers, the NAIC will continue to oppose this legislation. We have shared proposed language, but to date changes have not been made to address our concerns.

Please do not hesitate to contact the NAIC's Washington, DC office at (202) 471-3990 if you have any questions regarding the NAIC's position on this important consumer protection issue.

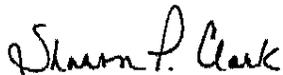
Sincerely,



Monica J. Lindeen
NAIC President
Montana Commissioner of
Securities and Insurance



John M. Huff
NAIC President-Elect
Director of Missouri's Department of Insurance,
Financial Institutions, and Professional Registration



Sharon P. Clark
NAIC Vice President
Kentucky Insurance Commissioner



Theodore K. Nickel
NAIC Secretary-Treasurer
Wisconsin Insurance Commissioner



The Honorable E. Benjamin Nelson
NAIC Chief Executive Officer
United States Senator (Ret.)