



Letter Withdrawn By Administrative Letter 2012-04

July 18, 2011

Administrative Letter 2011-06

TO: All Insurance Institutions in Virginia

RE: Gramm-Leach-Bliley Act Privacy Notices

The purpose of this administrative letter is to clarify that insurance institutions (as defined in § 38.2-602 of the Code of Virginia) may use the new federal Model Privacy Form in accordance with this administrative letter and still meet the requirements for compliance with the Gramm-Leach-Bliley Act (GLBA) set forth in Virginia's financial information collection and disclosure practices notice requirements described in §§ 38.2-604.1, 38.2-612.1, 38.2-613, and 38.2-613.2 of the Code of Virginia (Virginia Privacy Notice).

As required by the Financial Services Regulatory Relief Act of 2006, eight federal agencies¹ adopted a simplified federal Model Privacy Form. (See [Federal Trade Commission's rules](#).²) Insurance institutions that do business in the Commonwealth may use the new federal Model Privacy Form or continue to use other types of privacy notices that differ from the federal Model Privacy Form to meet the notice content requirements of the Virginia Privacy Notice. The accurate use of the federal Model Privacy Form in accordance with the instructions set forth below constitutes compliance with the notice content requirements of the Virginia Privacy Notice.

Use of Model Privacy Form

Insurance institutions may use the attached Model Privacy Form, consistent with the federal instructions and the instructions set forth below, as a safe harbor of compliance with the requirements of the Virginia Privacy Notice. The Model Privacy Form may be used at the option of an insurance institution, including a group of insurance institutions or financial

¹ Office of the Comptroller of the Currency; Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); National Credit Union Administration (NCUA); Federal Trade Commission (FTC); Commodity Futures Trading Commission (CFTC); and Securities and Exchange Commission (SEC).

² The federal Model Privacy Form and its instructions may be found at:
http://www.ftc.gov/privacy/privacyinitiatives/PrivacyModelForm_FR.pdf

institutions that use a common privacy notice to meet the content requirements of the Virginia Privacy Notice. GLBA and the Virginia Privacy Notice requirements apply to life insurance, accident and sickness insurance, and property and casualty insurance primarily for personal, family, or household purposes.

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The Model Privacy Form is a standardized form, including page layout, content, format, style, pagination, and numbering. Insurance institutions seeking to obtain the safe harbor through use of the model form may modify it only as described in the instructions set forth in the federal Model Privacy Form, as amended in this administrative letter. Furthermore, the safe harbor only applies to the use of the Model Privacy Form if the insurance institution accurately completes the form and otherwise meets the requirements of the federal instructions and the instructions set forth in this administrative letter.

Under § 38.2-604.1 C of the Code of Virginia, if an insurance institution only discloses nonpublic personal information to affiliated and non-affiliated third parties as authorized under § 38.2-613 of the Code of Virginia, the insurance institution is not required to list those exceptions in the initial or annual Virginia Privacy Notice. When describing the categories of parties to whom these disclosures are made, it is sufficient for the insurance institution to state that it makes disclosures to other affiliated and non-affiliated third parties: (1) for our everyday business purposes (include all that apply) such as to: process insurance transactions, maintain a policy(ies), respond to court orders and legal investigations, or report to credit bureaus; or (2) as permitted by law.

In the “What?” box of the Model Privacy Form, the bulleted list identifies the types of personal information that the insurance institution collects and shares. All insurance institutions must use the term “Social Security number” in the first bullet (as set forth in the instructions to the federal form). For the remainder of the bulleted items, an insurance institution should list examples of other personal information that it collects and shares.

Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the Fair Credit Reporting Act [15 U.S.C.1681–1681x] (FCRA), such as (i) a requirement to permit a consumer to opt out of disclosures to affiliates or (ii) designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.

Use of Other Types of Privacy Notices

Use of the attached Model Privacy Form is not required. Insurance institutions may continue to use their existing privacy notices that meet the requirements of the Virginia Privacy Notice.

Virginia-Specific Information to be Included in Privacy Notices

As required by the federal instruction to the Model Privacy Form, insurance institutions using this form must include state specific information on the form. *This information should be added to the Other Important Information box on page 2 of the federal Model Privacy Form.*

- As required by Section 38.2-604.1 of the Code of Virginia, in addition to describing the types of information that may be collected and disclosed, the insurance institution must describe the categories of persons to whom financial information may be disclosed.

- When describing the categories of parties to whom the licensee discloses nonpublic personal information, the licensee is not required to list the exceptions in Section 38.2-613 of the Code of Virginia in the initial or annual privacy notice required by Section 38.2-604.1 of the Code of Virginia.
- When describing the categories of parties to whom these disclosures are made, it is sufficient for the licensee to state that it makes disclosures to other nonaffiliated companies "as permitted by law."
- Additionally, the insurance institution must describe its policies and practices for protecting the confidentiality and security of financial information.

Safe Harbor Not Applicable to the Notice Required by § 38.2-604

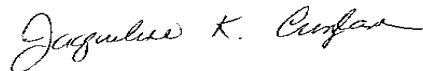
Insurance institutions should be aware that while the accurate use of the Model Privacy Form will provide the insurance institution with a safe harbor of compliance with the Virginia Privacy Notice, the Model Privacy Form will not provide a safe harbor for the notice required by § 38.2-604 of the Code of Virginia, the Notice of Information Collection and Disclosure Practices. The triggers for the two notices are different. Consequently, the insurers are reminded that they are still required to provide the notice set forth in § 38.2-604 of the Code of Virginia.

Questions regarding this letter may be directed to:

Property & Casualty Division
Katie Johnson, CIC, AIE
Principal Insurance Market Examiner
(804) 371-9688
Katie.Johnson@scc.virginia.gov

Life & Health Division
Ann Colley
Principal Insurance Analyst
(804) 371-9813
Ann.Colley@scc.virginia.gov

Sincerely,



Jacqueline K. Cunningham
Commissioner of Insurance

Attachment

Attachment - Model Privacy Form

There are four versions of the Model Privacy Form on the following pages.

- Version 1: Model Form with No Opt-Out.
- Version 2: Model Form with Opt-Out by Telephone and/or Online.
- Version 3: Model with Mail-In Opt-Out Form.
- Version 4: Optional Mail-In Form.

FACTS WHAT DOES *[NAME OF INSURANCE INSTITUTION]* DO WITH YOUR PERSONAL INFORMATION?

WHY? Insurance institutions choose how they share your personal information. Federal and state law gives consumers the right to limit some but not all sharing. Federal and state law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

WHAT? The types of personal information we collect and share depend on the product or service you have with us. This information can include:

- Social security number and *[example 2]*
- *[example 3]* and *[example 4]*
- *[example 5]* and *[example 4]*

When you are *no longer* our policyholder, we continue to share your information as described in this notice.

HOW? All insurance institutions need to share customers' personal information to run their everyday business. In the section below, we list the reasons insurance institutions can share their customers' personal information; the reasons *[name of insurance institution]* chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does <i>[name of insurance institution]</i> share?	Can you limit this sharing?
For our everyday business purposes – Such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus		
For our marketing purposes – To offer our products and services to you		
For joint marketing with other financial companies		
For our affiliates' everyday business purposes – Information about your transactions and experiences		
For our affiliates' everyday business purposes – Other information about your creditworthiness or insurability		
For our affiliates to market to you		
For nonaffiliated third parties to market to you		

Questions? Call *[phone number]* or go to *[website]*.

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Who we are	
Who is providing this notice?	<i>[insert name of the insurance institution]</i>
What we do	
How does <i>[name of insurance institution]</i> collect my personal information?	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> • <i>[example 1]</i> and <i>[example 2]</i> • <i>[example 3]</i> and <i>[example 4]</i> • <i>[example 5]</i> and <i>[example 6]</i> <p><i>[We also collect your personal information from other companies.] OR [We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]</i></p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> • Sharing for affiliates' everyday business purposes – information about your creditworthiness • Affiliates from using your information to market to you • Sharing for nonaffiliated third parties to market to you <p>State laws and individual companies may give you additional rights to limit sharing. <i>[See below for more on your rights under state law.]</i></p>

Definitions	
Affiliates	<ul style="list-style-type: none"> • Companies related by common ownership or control. They can be financial and nonfinancial companies. • <i>[affiliate information]</i>
Nonaffiliated third parties	<ul style="list-style-type: none"> • Companies not related by common ownership or control. They can be financial and nonfinancial companies. • <i>[nonaffiliated third party information]</i>
Joint marketing	<ul style="list-style-type: none"> • A formal agreement between nonaffiliated third parties that together market financial products or services to you. • <i>[joint marketing information]</i>

Other important information	
<p><i>[Insert other important information including VA specific requirements in §§ 38.2-604.1 and 38.2-613.2]</i></p>	

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To limit our sharing	<ul style="list-style-type: none"> • Call <i>[phone number]</i> – our menu will prompt you through your choice(s) • Visit us online: <i>[website]</i> • Mail the form below <p>Please note: If you are an applicant or new policyholder, we can begin sharing your information 30 days from the date we sent this notice. When you are no longer our policyholder, we continue to share your information as described in this notice.</p> <p>However, you can contact us at any time to limit our sharing.</p>																									
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Who we are

Who is providing this notice?	<i>[insert name of the insurance institution]</i>
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What we do

How does <i>[name of insurance institution]</i> collect my personal information?	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> • <i>[example 1]</i> and <i>[example 2]</i> • <i>[example 3]</i> and <i>[example 4]</i> • <i>[example 5]</i> and <i>[example 6]</i> <p><i>[We also collect your personal information from other companies.] OR [We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.]</i></p>
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Why can't I limit all sharing?	<p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> • Sharing for affiliates' everyday business purposes – information about your creditworthiness • Affiliates from using your information to market to you • Sharing for nonaffiliated third parties to market to you <p>State laws and individual companies may give you additional rights to limit sharing. <i>[See below for more on your rights under state law.]</i></p>
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Other important information

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For our affiliates to market to you		
For nonaffiliated third parties to market to you		

To limit our sharing

- Call [phone number] – our menu will prompt you through your choice(s)
- Visit us online: [website]
- Mail the form below

Please note:
If you are an applicant or new policyholder, we can begin sharing your information 30 days from the date we sent this notice. When you are no longer our policyholder, we continue to share your information as described in this notice.

However, you can contact us at any time to limit our sharing.

Questions? Call [phone number] or go to [website].

Cut here

Mail-in Form	
Leave Blank OR <i>[If you have a joint account, your choice(s) will apply to everyone on your account unless you mark the space below.]</i> <input type="checkbox"/> Apply my choices only to me]	Mark any/all you want to limit: <input type="checkbox"/> Do not share information about my creditworthiness or insurability with your affiliates for their everyday business purposes. <input type="checkbox"/> Do not allow your affiliates to use my personal information to market to me. <input type="checkbox"/> Do not share my personal information with nonaffiliated third parties to market their products and services to me.
Name	Mail to: [Name of insurance institution]
Address	[Address1]
City, State, Zip	[Address2]
[Account #]	[City], [State] [Zip]

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Mail-in Form

Leave Blank

OR

[If you have a joint account, your choice(s) will apply to everyone on your account unless you mark the space below.]

Apply my choices only to me]

Mark any/all you want to limit:

Do not share information about my creditworthiness with your affiliates for their everyday business purposes.

Do not allow your affiliates to use my personal information to market to me.

Do not share my personal information with nonaffiliated third parties to market their products and services to me

Name

Address

City, State, Zip

[Account #]

Mail to:

[Name of insurance institution]

[Address1]

[Address2]

[City], [State] [Zip]

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