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# NCSL – Cybersecurity and Insurance

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## NAMIC TODAY

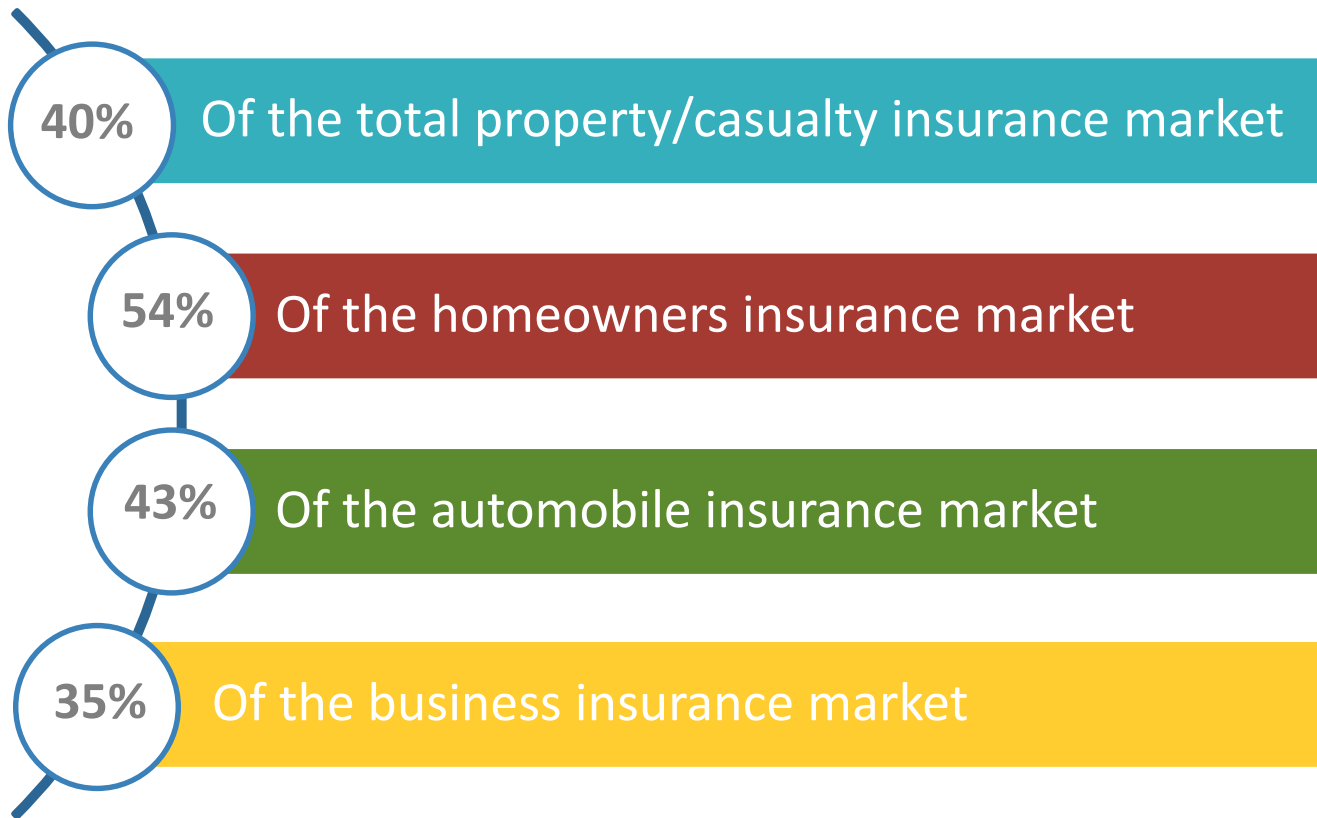


- Largest P/C Insurance Trade Association in the United States
- 1,400+ member companies in the U.S. & Canada
- More than 170,000,000 policyholders
- \$253 Billion in Annual Premiums
- More than 200,000 People Employed



## NAMIC TODAY

NAMIC  
MEMBERS IN  
THE U.S.  
REPRESENT:





# The Emerging Issue of Cyber Security – Early 2000's

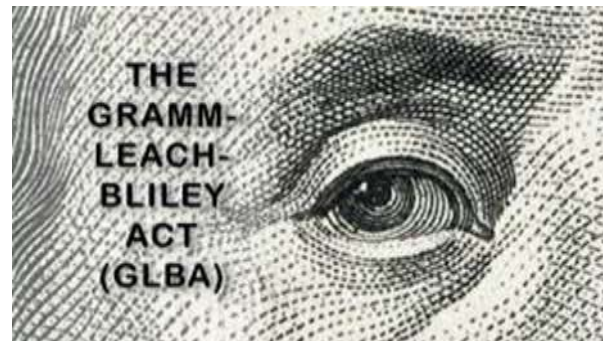
- Cyber security has been an issue for insurers since the dawn of online services
- Globe is increasingly reliant on vast and interconnected array of digital networks
- Legislators at state and federal level are becoming increasingly involved with cybersecurity





# A Brief History of GLBA

- Graham-Leach-Bliley
- Title V - Privacy
- Section 501 (b) governs the protection of customer information for fin. firms
- Text is incredibly simple
- Authorizes data protection standards, but breach investigation or notification is questionable





# GLBA Data Protection Language

“...establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer”



# States Enforce GLBA



- Unlike banking regulators, states only implemented data protection regulations
- GLBA explicitly made standards a floor the state regulators could build on
- Patchwork of breach standards has sprung up across the states enforced by AGs' offices



# THE EUROPEAN UNION'S GDPR

- Broad information protection standard that applies to personal info of EU citizens, effective May 25, 2018
- Replaces Data Protection Directive (est. 1995)
- Assertion of extra-territorial jurisdiction – EU citizens “anywhere in the world”
- Establishes robust fines for violations – up to 4% global gross revenue







# GDPR IMPACT ON U.S.-ONLY INSURERS?

- “Any company processing, storing or using data related to an EU citizen will be subject to citations and accompanying fines for noncompliance -- even if it’s just one customer” – Forbes
- Intent to hold insurers responsible extra-territorially (EU citizen involved in a U.S.-based claim)
- Litigation concerns?
- Large int’l companies complying may become source of pressure for U.S. adoption
- Pro-consumer nature of GDPR guarantees it will be part of the ongoing discussion in U.S.





# Cyber Issues in Washington



- Growing Call for National Data Privacy Legislation
- Some advocating for complete preemption
- Federal Trade Commission as Uber Regulator

**If states don't act with uniformity and with business necessity in mind, the chorus for Federal Preemption will grow louder**



## RECENT STATE ACTIVITY

### NAIC CYBER MODEL ACT

- NAIC completed and approved the final Insurance Data Security Model Act in 2017
- In 2018 South Carolina was the first state to introduce and pass the NAIC model law
- The NAIC is still discussing whether the model act should be an accreditation requirement, though unlikely
- Industry has worked together on a common set of amendments to improve the model in significant ways (exclusivity is key)
- Ohio and Michigan are the other two states who have adopted the model (with amendments)



**National Association *of*  
Insurance Commissioners**



# The Challenges Ahead – Defending States from Preemption

- Insurers are Inherently incentivized to Protect Policyholders
- Leave space for innovation – Flexibility
- Proportionality/Scalability/Complexity
  - Your Small Business Constituents can't negotiate with Microsoft





# The Challenges Ahead – Defending States from Preemption

- The “right to be forgotten” v. Data retention laws (what sounds good in concept v practicality)
- Exclusivity of Reporting – Why Ohio and Michigan recognized the need for amendments





# QUESTIONS?



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