



Support the ADA Education and Reform Act of 2015 (H.R. 3765)

ISSUE

Across the country, the practice of filing or threatening to file lawsuits against properties, businesses, and other public accommodations for minor and easily-correctable Americans with Disabilities Act (ADA) violations is on the rise. With the prime intent being a monetary judgment, these abusive and sometimes fraudulent lawsuits do little to improve access for the disabled community and more to threaten the businesses and industries being sued. More times than not, due to the lack of resources to contest the lawsuit, business are left paying significant settlements which consist primarily of attorney's fees.

The ADA Education and Reform Act of 2015 (H.R. 3765) was introduced to address the alleged ADA access violations more efficiently. The bill strengthens the ADA and helps businesses to combat the aforementioned fraudulent lawsuits and identify and correct alleged violations in a timely manner.

RIMS POSITION

RIMS SUPPORTS H.R. 3765 AS IT PUTS AN EMPHASIS ON COMPLIANCE AND IMPROVED ACCESS, ALLOWING BUSINESSES AND PROPERTY OWNERS THE REASONABLE TIME NEEDED TO CORRECT OR MAKE SUBSTANTIAL PROGRESS IN CORRECTING AN IDENTIFIED VIOLATION. THE BILL ALSO HELPS TO PROTECT OUR MEMBERS FROM ABUSIVE LAWSUITS BY REMOVING INCENTIVES FOR CHARGING UPFRONT LEGAL FEES. RIMS MEMBERS ARE COMMITTED TO CREATING A SAFE ENVIRONMENT AND ARE CONCERNED WITH ANY CIRCUMSTANCES WHICH MAY GENERATE POTENTIAL FOR LIABILITY LOSSES.

KEY FACTS

- ✦ Allows property owners to receive notice of an alleged violation and a period of 60 days to give notice of intent to fix any problem. Further, it allows 120 days to complete work before facing a lawsuit.
- ✦ Would permit future legal action if there was failure by the property owner to address violations after notifications of a problem.
- ✦ Requires demand letters to provide specific information detailing circumstances of denial of access.
- ✦ Creates a mediation program to help parties resolve claims of barriers to access without costly litigation.



Support the Captive Insurers Clarification Act (S. 1561)

ISSUE

The Nonadmitted and Reinsurance Reform Act (NRRA) failed to explicitly exclude captives from the definition of “nonadmitted insurer,” leaving insureds unclear on whether independent procurement taxes on the insurance purchased from their captive must be paid to their home state in addition to the captive domicile.

Senators Patrick Leahy (D-VT) and Lindsey Graham (R-SC) introduced S. 1561, the *Captive Insurers Clarification Act*, which amends the NRRA to define “captive insurance company”.

Captives have long been regulated by the captive's domiciliary state, but if the NRRA applies to captives, that may be upended as the NRRA says nonadmitted insurers are regulated by the insured's home state. The NRRA expressly exempts risk retention groups, but not captives. If the home state of the insured were to become the regulator and taxing authority for captives, there may be less reason for captives to locate in such captive domiciles like VT, SC and DE.

RIMS POSITION

RIMS SUPPORTS S. 1561 AS IT WOULD OFFICIALLY OMIT CAPTIVES FROM THE NRRA, PROVIDING RISK PROFESSIONALS WITH GREATER CLARITY ON EXPENSES ASSOCIATED WITH THEIR ORGANIZATION'S CAPTIVE INVESTMENT. DUE TO THE AMBIGUITY OF THE NRRA, CAPTIVE INSURERS ARE CONCERNED THAT BOTH THE STATE IN WHICH A CAPTIVE IS HEADQUARTERED, AND THE STATE IN WHICH THE CAPTIVE IS DOMICILED, MAY CLAIM THE PREMIUM TAX. THE CAPTIVE INSURERS CLARIFICATION ACT WOULD CLARIFY THAT SUCH COMPANIES WERE NEVER INTENDED TO BE INCLUDED UNDER THE NONADMITTED AND REINSURANCE REFORM ACT.

KEY FACTS

The bill defines “captive insurance company” as an insurance company wholly owned directly or indirectly:

- ✦ by a single parent company and whose primary purpose is to insure the risks of that single parent company or its affiliates;
 - ✦ by a group of companies and whose primary purpose is to insure the risks of that group or its affiliates; and
 - ✦ by an industry, trade, or service group or association, and whose primary purpose is to insure the risks of any member in that group or association, including any member affiliate.
- ✦ Excludes a captive insurance company from the meaning of a “nonadmitted insurer” (that is not licensed to engage in the business of insurance in a state), and from any requirements (including state tax requirements) applying to a nonadmitted insurer.



Support a National Standard for Data Security and Breach Notification

ISSUE

Forty-seven states, the District of Columbia, and three territories have enacted varying data breach notification laws that are far from uniform. RIMS recognizes that for businesses operating in multiple states, compliance with a patchwork of state requirements creates confusion and lessens efficiency. This, and the threat of legal action for non-compliance is why we believe a national standard for data security and breach notification is critical.

We know that breaches can and do occur on an increasingly frequent basis; we also believe it is critical that those whose information has been compromised are informed about it promptly; however, the current 47 state system makes this process unnecessarily difficult to comply with. This means that our members could conceivably be responsible for sending out 47 different notifications if they have parties affected in all of those states. This leads to increased operating costs and affected parties may receive different types and amounts of information contingent on which state they live in.

RIMS POSITION
RIMS SUPPORTS THE DATA SECURITY AND BREACH NOTIFICATION ACT OF 2015 (S. 177 AND H.R. 1770), AND THE DATA SECURITY ACT OF 2015 (S. 961 AND H.R. 2205) BECAUSE THEY EFFECTIVELY REPLACE THE CURRENT PATCHWORK OF STATE AND FEDERAL REGULATIONS FOR DATA BREACHES WITH A NATIONAL LAW THAT PROVIDES UNIFORM PROTECTIONS ACROSS THE COUNTRY.

KEY FACTS

- ★ 47 states have differing requirements that together provide uneven consumer protection.
- ★ Each state law has different definitions for what constitutes a data breach, what delineates personal data, who must comply, and who must be notified.
- ★ Varying laws leave consumers in the states that have yet to enact data breach notification laws without protection.
- ★ Passing federal data breach legislation will simplify the compliance process for companies so that they can focus on protecting consumers rather than navigating complex rules, and the only way to provide this is by preempting state laws.



National Flood Insurance Program (NFIP) Reauthorization Recommendations

ISSUE

The Risk and Insurance Management Society (RIMS) is the world's largest professional organization dedicated to advancing the practice of risk management. We represent more than 3,500 industrial, service, nonprofit, charitable and government entities. The entities we represent are typically commercial insurance policy holders of all sizes ranging from Fortune 500 companies to small businesses, but also cities, counties and school districts. Many of our members purchase flood insurance through the NFIP.

RIMS supports a long-term reauthorization of the NFIP to maintain a sense of stability within the marketplace. We also support exploring ways to move the NFIP towards fiscal health. As you continue to discuss reauthorization we ask that you consider RIMS a resource.

RECOMMENDATIONS

The reauthorization should:

- ✓ Continue to move toward risk based premiums.
- ✓ Emphasize updating FEMA maps.
- ✓ Encourage increasing the number of participants in the program.
- ✓ Clarify what constitutes an equivalent private flood insurance policy.
- ✓ Encourage competition among private insurers to provide consumers with enhanced policy options.
- ✓ Establish a safe harbor for consumers when an insurer certifies that a flood insurance policy meets federal requirements.
- ✓ Recognize that lease requirements and mortgage requirements to maintain flood insurance mandate a viable NFIP and, in the private marketplace, a comparable flood insurance policy.
- ✓ Encourage local governments to standardize data and flood related information and adopt FEMA maps.