



*First American*

Testimony of Garrett Rogers, Senior Operations Counsel  
First American Title Insurance Company  
before the Senate Committee  
on  
Economic Development, Housing and General Affairs  
H.121, An Act Relating to Enhancing Consumer Privacy

Madam Chairman and members of the Committee, my name is Garrett Rogers and I am Senior Operations Counsel for First American Title Insurance Company (First American). We appreciate the opportunity to offer comments to the Vermont Senate Committee on Economic Development, Housing and General Affairs on HB 121, An Act Relating to Enhancing Consumer Privacy.

While we understand and applaud the Vermont legislature for addressing the needs of consumers, we have concerns about specific language that may restrict the distribution of public records.

First American is a national title insurance company that insures individuals purchasing homes and mortgage lenders that provide financing for home purchases. In order to insure real estate transactions, title companies like First American require access to public record information, including County Recorder/Clerk information and County Assessor information. To obtain this information, title companies rely on abstractors and data companies that collect public record information. Further, in transactions secured by a mortgage, this public record information is provided to lenders to generate loan documents, mortgages, deeds, and other related documents.

HB 121 only exempts “publicly available information” to the extent that it is “related to a consumer’s business or profession” from the definition of “Brokered personal information.” Further, HB 121 adds a broad new definition of “personal information” that does not appear to exclude publicly available information. HB 121 also requires “data collectors” to minimize the use, retention, collection, and sharing of “personal information” and defines a “Data broker” as a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the “brokered personal information” of a consumer with whom the business does not have a direct relationship.

In sum, as proposed, HB 121 would impose significant restrictions on the dissemination of public record information that provides the foundation for title insurance. Limited access to public record information could prevent title insurance companies from insuring homeowners and mortgage lenders and, as a result, could prevent Vermont residents from obtaining financing to purchase homes.

To address these issues, we propose that HB 121 be amended to define “publicly available information” as information that is lawfully made available from federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public by the consumer or from widely distributed media. Further, we propose that “publicly available information” be excluded from the various categories of information including “brokered personal information,” “personal information,” and “personally identifiable information.” It appears the House considered the need for this information in financial transactions, but the exemption provided does not reach the services we provide.

HB 121 would make Vermont an outlier from other states which at best could make title insurance more expensive and possibly make it more difficult for potential homebuyers to obtain title insurance and finance home purchases. We propose the above changes consistent with other recently adopted comprehensive state privacy laws. For example, both California and New Hampshire’s privacy laws include the above proposed definition of “publicly available information” and exempt publicly available information from the overall category of personal information.

Thank you for the opportunity to submit these comments.

Sincerely,



Garrett Rogers

Senior Operations Counsel, First American Title Insurance Company