

## GLBA: Enforcement Coverage and Penalties

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**What are the fines and penalties for insurance licensees that violate the Gramm-Leach-Bliley Act (GLBA)?**

**Important Note: GLBA is just the start of liabilities for Insurance Licensees. Depending on the state in which they are licensed, and the type of products/services offered, an insurance licensee can also have responsibility under Data Breach Disclosure Laws, HIPAA, FISMA, FCRA, FACTA, etc.**

**Answer:**

GLBA fines and penalties for Insurance Licensees depend upon four primary factors:

1. The number of states that a licensee holds an insurance license. (Multi-state licensees are subject to greater fines and penalties)
2. Whether insurance licensee engages in a cross-selling of products/services. (More cross-selling of products/services, increased liability. (For example: Insurance licensee that sells stocks and bonds. That licensee is now subject to SEC fines and penalties.)
3. Whether an insurance licensee has any contractual agreements with carriers, organizations, or governmental agencies that impose additional fines and penalties for non-compliance.
4. Specific language of a State's Unfair Trade Practices Act in which a licensee holds a license.

Due to these four factors, each licensee could have differing potential fines and penalties. In order to determine the potential fines and penalties for an individual licensee, it would be necessary to do an in-depth review of that licensee's situation. Instead of doing an in-depth review of a single customer, the following provides a general overview. Note: This is a general example; each licensee will have unique circumstances.

**Example: An insurance licensee.**

Independent

Sells both P/C and Health.

Provides financial planning.

Licensed in two states. 1 State has GLBA regulation. 1 State has not passed GLBA regulations.

Each state has an Unfair Trade Practices statute.

Has a joint marketing relationship with a small local community bank.

**Key fines and penalties for this example.**

Attached is a table providing a more in-depth overview including statutory language and citations. Also provided some additional collateral material. However, in very broad overview here is what this licensee would be facing for violations:

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## **Federal level**

Investigation by FTC, Department of Justice, Banking Authorities, and Dept. of Civil Rights.

Penalties can include:

- Injunctions,
- Cease and Desist orders,
- Consent decrees,
- Fines from \$11,000 per violation and \$11,000 per day to \$1 million dollars.

NOTE: While a Consent decree may seem less expensive than a fine, please see the attached FTC material covering an insurance licensee that had an office in Pennsylvania. As can be seen, the requirements under the consent decree would be very expensive and time-consuming. The consent decree covered both the business and the owner. Additionally the cost of attorney's fees to defend this action would be substantial.

## **State Level**

**(This would occur for every state in which the licensee had a license to sell insurance.)**

Investigation by Departments of Insurance, Attorney Generals and local District Attorneys.

Penalties can include:

Injunctions,  
Loss of insurance license,  
Loss of right to do business in that state,  
Cease and Desist orders,  
Return or loss of commissions,  
Fines from \$100 to \$5,000 per violation (not to exceed \$50,000 per 6-month period) for Unfair Insurance Practices Act.  
Fines up to \$5,000 per violation for the Unfair Trade Practices Act.

## **Customer Lawsuits**

Under the State Unfair Trade Practices Act, consumers and customers have a private right of action. This would include class action lawsuits.

Potential Damages include: Triple damages, and attorney fees.