

NAR Issue Summary

Business / Data Privacy and Security

What is the fundamental issue?

Public concern about the confidentiality of personal medical, financial and consumer data has put pressure on policy makers to increase regulation on the uses of this information. The recent popularity of marketers to use online advertising targeted to individual consumers has also concerned members of Congress. To date, more than 16 data privacy and security bills have been introduced in Congress. Many of these measures would: apply privacy regulations to both online and offline data collection, storage and flow; require privacy notices and impose other information safeguards. Some bills would also permit industry to develop their own self-regulatory privacy programs that, if endorsed by the Federal Trade Commission, would create a safe harbor from regulation.

I am a real estate professional. What does this mean for my business?

Realtors collect, store and share a great deal of consumer information. Often, the collected data is of a sensitive financial nature. The current proposals for comprehensive privacy legislation would require nearly all Realtors and Realtor Associations to comply with the new rules. NAR is working to ensure that any future privacy law takes into account the burden on small businesses and is narrowly tailored to reduce its impact on members.

NAR Policy:

NAR adopted the following data privacy and security principles in 2010:

REALTOR®s recognize that as data collection continues to become a valuable asset for building relationships with their clients, so does their responsibility to be trusted custodians of that data.

Consumers are demanding increased transparency and control of how their data is used. For this reason, REALTOR®s endorse the following Data Privacy and Security principles:

Collection of Personal Information Should be Transparent

REALTOR®s should recognize and respect the privacy expectations of their clients. They are encouraged to develop and implement privacy and data security policies and to communicate those policies clearly to their clients.

Use, Collection and Retention of Personally Identifiable Information

REALTOR®s should collect and use information about individuals only where the REALTOR® reasonably believes it would be useful (and allowed by law) to administering their business and to provide products, services and other opportunities to consumers. REALTOR®s should maintain appropriate policies for the, reasonable retention and proper destruction of collected personally identifiable information.

Data Security

REALTOR®s should maintain reasonable security standards and procedures regarding access to client information.

Disclosure of Personally Identifiable Information to Third Parties

REALTOR®s should not reveal personally identifiable data to unaffiliated third parties unless 1) the information is provided to help complete a consumer initiated transaction 2) the consumer requests it; 3)

NAR Issue Summary

Business / Data Privacy and Security

the disclosure is required by/or allowed by law (i.e. investigation of fraudulent activity); or 4) the consumer has been informed about the possibility of such disclosure through a prior communication and is given the opportunity to decline (i.e. opt-out.)

Maintaining Consumer Privacy in Business Relationships with Third Parties

If a REALTOR® provides personally identifiable information to a third party on behalf of a consumer, the third party should adhere to privacy principles similar to the REALTOR® that provide for keeping such information confidential.

Single Federal Standard

NAR supports a single federal standard for data privacy and security laws in order to streamline and minimize the compliance burden.

[View NAR's page on Data Privacy and Security](#)

Legislative/Regulatory Status/Outlook

Comprehensive federal data privacy and security legislation was introduced in both the House and the Senate this year. S. 799 the "Commercial Privacy Bill of Rights Act" was introduced by Sens. Kerry (D-MA) and McCain (R-AZ). In the House, Reps. Stearns (R-FL) and Matheson (D-UT) introduced H.R. 1528 the "Consumer Privacy Protection Act of 2011." Several hearing have been held on the topic but the likelihood of passage of comprehensive privacy legislation this year remains slim. There is still a chance that a more narrow data breach bill could pass that would proscribe the method of notification of consumers in the event of a data breach as well as require businesses to implement a data security policy. Both the Commerce Department and the FTC recently released reports on consumer privacy. The Commerce report recommends legislation to implement a consumer privacy bill of rights and a multistakeholder process to recommend industry self-regulatory practices.

NAR has developed an educational toolkit for members and is exploring the possibility of developing a real estate industry self-regulatory program.

Current Legislation/Regulation (bill number or regulation)

[S. 799 - Commercial Privacy Bill of Rights Act](#)

[S. 913 - Do Not Track Online Act](#)

[S. 1207 - Data Security & Breach Notification Act](#)

[H.R. 220 Identity Theft Prevention Act](#)

[H.R. 611 - BEST PRACTICES Act](#)

[H.R. 654 - Do Not Track Me Online Act](#)

[H.R. 1528 - Consumer Privacy Protection Act](#)

[H.R. 1841 - Data Accountability and Trust Act](#)

[H.R. 2577 - SAFE DATA Act](#)

Legislative Contact(s):

Melanie Wyne, mwyne@realtors.org, 202-383-1234

NAR Issue Summary

Business / Data Privacy and Security

Colin Allen, callen@realtors.org, 202-383-1131

Regulatory Contact(s):

Melanie Wyne, mwyne@realtors.org, 202-383-1234