



NATIONAL
ASSOCIATION of
REALTORS®

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February 16, 2012

Rep. Jim Jordan
Chair, Republican Study Committee
1524 Longworth House Office Building

Dear Representative Jordan:

On behalf of the 1.1 million members of the National Association of REALTORS® (NAR) and more than 1400 local REALTOR® associations, I wish to thank you for the invitation to share NAR's thoughts on Cybersecurity legislation currently under consideration by Congress. While we do not have a comment on the current legislation, we are aware of the possibility that data breach notification language could be added as an amendment. NAR wishes to comment on the issue of data breach. We urge you to share our comments with other members of the Republican Study Committee.

Several previously introduced bills¹ would require security policies and procedures to protect data containing personal information, and provide for nationwide notice in the event of a security breach. While Realtors have long been supportive of efforts to protect consumers' sensitive personal information², NAR strongly believes that any new federal data security law must be narrowly tailored to minimize the regulatory burden such a law could place on vulnerable independent contractors and small businesses.

Real estate firms vary widely in size, but the overwhelming majority of realty firms are very small entities. NAR's most recent surveys indicate that more than half of all realty firms have less than twenty-five agents and that the typical REALTOR® is affiliated with an independent realty firm with only one office. This unique industry structure can make compliance with regulatory burdens particularly onerous. Further compounding this concern is the independent contractor status of the overwhelming majority of real estate sales professionals. Any new data security requirements will necessarily impact the individual real estate agent who is a legal business entity separate from the real estate company with which they are affiliated.

NAR supports the preemption of state information security laws to create a national uniform standard. We believe that one national standard will help to reduce compliance burden for small businesses. Additionally, a single uniform national standard will enhance actual notice to consumers in the case of a data breach. However, we believe that notice requirements should be based on a significant risk of harm, not merely the fact that a breach has occurred. Implementation of a risk of harm safe harbor will reduce unnecessary compliance burden on small businesses while at the same time minimize the



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¹ HR 611 BEST PRACTICES Act and HR 2577 SAFE Data Act

² The Realtor® Code of Ethics and Standards of Practice explicitly acknowledge a Realtor's® obligation to preserve the confidentiality of personal information provided by clients in the course of any agency or non-agency relationship - both during and after the termination of these business relationships. Protection of client personal information is an important part of the trusted relationship our members enjoy with their clients.

risk that ecommerce is chilled by alarming consumers in cases where no risk of fraud or identity theft is likely.

Furthermore, once disclosure is deemed necessary we believe that the covered entity should be permitted to choose a communication option that minimizes its cost burden while ensuring that reasonable disclosure has been made.

We strongly oppose the inclusion of a private right of action to any data breach legislation as an onerous remedy that could significantly harm the already fragile business climate that is struggling to maintain, much less create jobs.

Given the importance of this issue to consumers and businesses of all sizes, Congress must fully examine the ramifications and potential penalties that overly broad language would have on small businesses and the self-employed. We thank you for your work on this important consumer issue to date and look forward to working with you and your staffs to advance legislation that will both protect consumers and create an environment where businesses and innovation can flourish.

Sincerely,

A handwritten signature in black ink, appearing to read 'Moe', with a horizontal line extending to the right.

Maurice "Moe" Veissi
2012 President, National Association of REALTORS®