



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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September 29, 2010

The Honorable Jay Rockefeller
Chairman
Committee on Commerce, Science and
Transportation
United States Senate
531 Hart Senate Office Building
Washington , DC 20510

The Honorable Mark Pryor
Chairman
Subcommittee on Consumer Protection, Product
Safety, and Insurance
United States Senate
255 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Rockefeller and Pryor:

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 share NAR’s thoughts on S. 3742 (Pryor, D-AR; Rockefeller, D-WV,) The Data Security and Breach Notification Act of 2010, that 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 information¹, 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 the typical Realtor® is affiliated with an independent firm with less than twenty-five agents and/or 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.

Given this industry structure, we appreciate the inclusion of language in the bill that would direct the Federal Trade Commission (FTC), as the regulating authority, to take into consideration the size of the entity covered as well as the cost impact of any required compliance. If this consideration were removed, we would be concerned that S. 3742 would impose a difficult and costly compliance burden on our industry. For this reason, we urge Congress to remain mindful of the administrative and cost burden of any final legislation on small businesses and independent contractors.

Additionally, we are very concerned that language in the bill would permit the FTC to modify its definition of “personal information to the extent that such modification does not unreasonably impede interstate

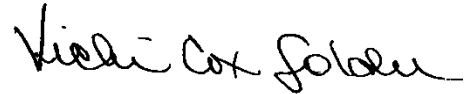
¹ The Realtor® Code of Ethics and Standards of Practice explicitly acknowledge a Realtor's® obligation to preserve the confidentiality of personal information provided by clients in the course of any agency or non-agency relationship - both during and after the termination of these business relationships. Protection of client personal information is an important part of the trusted relationship our members enjoy with their clients.



commerce, and will accomplish the purposes of the Act,” or as necessary to accommodate changes in technology or practices. We feel this delegation of authority is dangerously broad and could permit the FTC to regulate information beyond the scope that Congress intended.

Given the importance of this issue to consumers and businesses of all sizes, it is extremely important that Congress fully understand the ramifications of any actions taken. 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 that reads "Vicki Cox Golder". The signature is written in a cursive, flowing style.

Vicki Cox Golder, CRB
2010 President, National Association of REALTORS®

cc: Members, Senate Committee on Commerce, Science, and Transportation