

NATIONAL ASSOCIATION OF REALTORS®

EYE ON THE HILL

*By Jerry Giovaniello
Chief Lobbyist & Senior Vice President
of Government Affairs*



AUGUST 2006

DATA SECURITY IN THE E-COMMERCE WORLD

How often do you think about the issue of data security? Did you write a check today? Did you make a purchase using a credit or debit card? Did you make a phone call on your office, home, or cell phone? Did you meet with a new client looking to buy or sell a home?

If you engage in any of these activities, you most likely provide someone else with your personal information or you collect personal information from a client. You may not think about how the party receiving that information stores and uses your data. You may have never considered your own data security practices for client information. However with new revelations about how companies deal with personal data and data security, Congress is now concerned about how companies keep private the information they collect about their customers.

Modern business practices are evolving and consumers are changing the ways in which they purchase and pay for goods and services. Businesses which once conducted transactions face-to-face using cash are now increasingly serving customers via phone, fax, email and the internet using credit cards, direct debits, and online payment systems. Real estate agents and offices, long guardians of massive filing systems, are increasingly incorporating electronic data storage into their normal business routines. Even the smallest of real estate agents or brokers may want to consider what customer data is collected and how it is protected.

Congress is taking notice of recent data security breaches involving customer information. ChoicePoint, DSW, Inc., and even the US Departments of Veterans Affairs and Agriculture have all made headline news for allowing customer and employee personal information to escape into the “cyberworld.” Congress is responding to these incidents by drafting legislation.

No fewer than four House and Senate committees have held mark-ups and approved legislation regarding data security. All of the bills would:

- Define what constitutes “sensitive personal information,”
- Require businesses that collect, keep, or maintain such information to establish safeguards to maintain a secure storage environment;
- Establish guidelines firms must follow upon finding that a data breach has occurred; and,
- Establish a threshold for data breaches that require mandatory customer notification.

The National Association of REALTORS® (NAR) is tracking the legislation and is working to insure that any legislation adopted balances the need for consumer protection against the regulatory burdens and costs that could be imposed on firms. NAR is focusing on three main issues:

- State preemption: All of the bills advanced to date would preempt state data security and consumer notification laws, an issue of concern especially where state legislatures have already dealt with this issue;
- The treatment of paper records: While the majority of these bills address only electronic data security, one bill would impose the same requirements on both paper and electronic records, and;
- Small business impacts: Along with other small business groups, NAR has been working to build awareness of the potential regulatory burden that a one-size-fits-all solution could impose on small firms and independent contractors.

Despite the activity on data security legislation, it is unclear whether any of the bills will pass this year. The legislative schedule and open-ended policy questions remain impediments to bill enactment.

Regardless of any legislative action, data privacy will continue to be an issue for those who collect customer information in their day-to-day operations. NAR will continue to represent REALTORS® interest in Washington regarding the issue of data security. In the meantime, when you make that next client entry into your contact management system, or when you file a new sales contract, think about just how you will make sure that the information you have been entrusted with is secure in today’s new electronic world.

DO YOU HAVE MORE QUESTIONS ABOUT DATA SECURITY IN YOUR FIRM: REALTOR® SECURE

REALTOR® Secure addresses a range of today's business concerns, from avoiding business interruptions to securing on-line information and transactions. The certification program demonstrates REALTOR® organizations meet security industry best practices. Any association, brokerage, MLS or industry vendor is a candidate for the REALTOR® Secure program. For more information on this program, please go to the following website: www.realtors.org/secure