

Protecting Privacy and Helping Homeowners

State data protection Bills Must Not Unintentionally Impede Homeownership

Talking Points

Our economy is increasingly data-driven. Networks that facilitate near frictionless data exchange and, more recently, data itself—both the intentionally created and data generated as a byproduct of routine digital processes—have become crucial to economic growth and innovation. Like many industries, data-driven innovation is transforming the housing finance industry. Developments such as mobile banking, remote online notarization, and alternative data underwriting are improving efficiency, expanding access to credit, and helping businesses deliver a better consumer experience.

Along with considerable benefits, the adoption of data-driven technologies has created unique concerns with respect to personal data privacy and data protection. As lawmakers begin to propose regulatory schemes to address these issues, we urge them to consider the following points with respect to the real estate finance industry's role of facilitating affordable and sustainable home ownership for millions of Americans:

1. **The financial services industry is subject to a comprehensive scheme of federal consumer privacy and data protection laws.** Federal laws, including the Gramm-Leach-Bliley Act, Fair Credit Reporting Act, Telephone Consumer Protection Act, and Right to Financial Privacy Act combine to create a workable framework that is consistent across the country. Experience with the current framework means that the requirements of its laws, and the protections they provide, are widely understood. For this reason, a Gramm-Leach-Bliley “entity” or company level exemption is appropriate to avoid upsetting the balance that has worked. To the extent that a particular issue is not addressed by the current framework, as has been suggested with respect to consumer consent, data deletion, etc., the best approach is to amend existing laws, rather than risk the confusion and potential for inconsistent requirements that comes with variable state legislation.
2. **Whether through federal law that preempts state and local laws, or through a cohesive scheme of state laws, a uniform regulatory framework is necessary.** Current technologies and future innovation depend on the ability of businesses to transfer and share data across jurisdictions. For this reason, a patchwork of inconsistent state and local laws would be unworkable. Along with causing an undue compliance burden, inconsistent regulatory requirements would expose businesses to legal uncertainty and risk. Building IT infrastructure in order to comply with each individual state's requirements in addition the federal government's is a substantial burden to bear for interstate companies. These factors result in greater costs and reduced access to credit or hamper development of innovative services for consumers. A patchwork approach, with varying standards depending on jurisdiction, is also inconsistent with consumer expectations for uniform protections.

