

# Federal Data Privacy Legislation Is Likely Next Year, Tech Lawyers Say

by Dan Clark

If federal data privacy legislation is ever going to be passed, it may be in 2019, said Intel's U.S. senior director of government relations, Lisa Malloy.

More and more people have become aware of how much of their personal information is on the internet, and they are more aware of the risks of having that information exposed. Over the past couple of months, legislators, trade organizations and even tech companies have stepped up their efforts to pass data privacy and cybersecurity legislation.

While sector-specific cybersecurity bills have been enacted, earlier proposals for comprehensive data privacy and security legislation failed to get off the ground. As early as 2009, for instance, U.S. Senator Patrick Leahy, D-Vermont, introduced a bill for the Personal Data Privacy and Security Act. The bill never received a floor vote.

Why now? More companies appear to be growing concerned with the idea of having a jumble of federal and state data privacy and cybersecurity laws, especially with the passage of the California Consumer Privacy Act of 2018 in June of this year. However, the California law will not fully take effect until 2020. There are also several different laws governing data privacy by sectors, such as the Health Insurance Portability and Accountability Act and The Fair Credit Reporting Act.

David Hoffman, associate general counsel and global privacy officer at Intel Corp., based in Santa Clara, California, said that with the CCPA comes more of a patchwork of different regulations with which companies would have to work to comply.

"It's the patchwork issue that people are most worried about," Hoffman said.

James Shreve, a partner and head of the cybersecurity practice at Thompson Coburn in Chicago, explained that California is the only state that has a comprehensive law on cybersecurity or that goes beyond reporting a data breach. He said California tends to be the trendsetter for that kind of legislation. Right now, states have different laws on when companies are supposed to report data breaches.

"There's more interest among industry [in having something passed] than we've seen in the past several years," Shreve said.

## CONGRESSIONAL PROPOSALS

In Congress, legislators have introduced a number of proposals recently hoping to get away from a patchwork of state and federal laws to create an overarching law governing data privacy and cybersecurity: In July, Rep. Hank Johnson, D-Georgia, announced that he would be re-introducing two bills on cybersecurity and data privacy. One of them, The Application Privacy, Protection and Security Act of 2018 (H.R. 6547), would govern how data is collected and secured on mobile devices. He also introduced the Data Broker Accountability and Transparency Act of 2018 (H.R. 6548), which would require data brokers to establish procedures for accessing and correcting their collected information, and allow

U.S. citizens to have their data erased from corporate servers. This bill has a companion in the U.S. Senate introduced by Sen. Edward Markey, D-Massachusetts, S.1815.

In September, the Financial Services Committee in the U.S. House of Representatives passed the Consumer Information Notification Requirement Act H.R. 6743, sponsored by Rep. Blaine Luetkemeyer, R-Missouri. The bill, if enacted by Congress, would allow the Federal Reserve and Comptroller of Currency to establish standards to prevent a data breach, but would leave it up to state insurance regulators to enforce the federal standards on licensed insurance companies, according to an advisory by Crowell & Moring attorneys John Sarchio and Richard Liskov. The bill would allow except in some circumstances federal preemption of state laws, such as the model act for the cybersecurity of insurance data enacted by the National Association for Insurance Commissioners. The NAIC act was patterned after the New York Department of Financial Services' comprehensive financial services cybersecurity regulations enacted in 2017.

In November, Sen. Ron Wyden, D-Oregon, introduced draft legislation on data protection bill that would amend the Federal Trade Commission Act to allow the commission to enforce data privacy and security standards and allow executives to be jailed for 10-20 years if they were found to be in violation of the standards.

## TECH COMPANIES WEIGH IN

Tech companies also have gotten into the act, releasing their own opinions and model federal legislation for data privacy and security in response, not only to the California Privacy Act but also to the European Union's earlier General Data Protection Regulation of 2016.

- Intel released its draft proposal in early November with the hopes of fostering discussion on data privacy. Intel is accepting feedback on its draft legislation and will publish a second draft of the bill in 2019.

- Alphabet Inc., the parent company of Google, which declined comment for this story, referred to its opinions on federal privacy legislation to a September blog post authored by the company's chief privacy officer Keith Enright. In that post, Enright wrote that the organizations that misuse consumer data should be held responsible and that a consumer's power to control their own personal data should not be difficult.

- IBM previously has said it would like to see a public-private approach rather than government mandates when it comes to data privacy and cybersecurity, according to an earlier report on Law.com.

The prevailing thought among the tech companies and the legislators is that the Federal Trade Commission would be the body that governs whatever kind of comprehensive law is passed. The FTC already oversees different privacy related regulations for sectors of industry.

**Dan covers cyber security, legal operations and intellectual property for Corporate Counsel. Follow him on Twitter @ Danclarkalm.**



## CITY OF DORAL BROWNFIELD AND GREEN USE AREA ADVISORY GROUP NOTICE OF PUBLIC MEETING

All residents, property owners and other interested parties are hereby notified that the **City of Doral Brownfield and Green Reuse Area Advisory Group will have an advisory committee meeting on Monday, December 10, 2018, beginning at 6:00 PM**, to consider Skilled Nursing Facility Brownfield Site Rehabilitation Agreement (BSRA) pursuant to Section 376.80, Florida Statutes, Florida's Brownfield Redevelopment Act for the purpose of environmental rehabilitation, job creation, and promoting economic redevelopment. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

**APPLICANT:** Care Outlook, LLC and Florida International Medical System, LLC

**PROJECT NAME:** Skilled Nursing Facility and Medical Office Building

**LOCATION OF BROWNFIELD SITE:** 3635 NW 78<sup>th</sup> Avenue Doral, Florida 33166

**FOLIO NUMBER:** 35-3027-007-0024

**SIZE OF PROPERTY:** 2.93 +/- Acres

**LEGAL DESCRIPTION:** Tract "B" of "CRUELLE AIRPORT INDUSTRIAL PARK" according to the plat thereof as recorded in Plat Book 86 at Page 29 of the Public Records of Miami-Dade County, Florida. Less the South 490 feet thereof, as said 490 feet is measured along the West Line thereof. Containing 127,652 Square Feet or 2.93 Acres, more or less, by calculations.

Location Map



Information relating to the BSRA is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, FL 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL 33166**. Maps and other data pertaining to this BSRA are available for public inspection during normal business hours in City Hall. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

NOTICE IS FURTHER GIVEN that members of the City of Doral, City Council may be present during this meeting and may discuss items that may come before the City Council.

In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during this process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante este proceso, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción.

Connie Diaz, CMC  
City Clerk  
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