

H.R. 8152, The American Data Privacy and Protection Act

Topline: Credit unions strongly support the enactment of a national data security and data privacy law that includes robust security standards that apply to all who collect or hold personal data and is preemptive of state laws.

H.R. 8152, The American Data Privacy and Protection Act was introduced in the House in June 2022. Credit unions support the approach of this bill; however, there are concerns with the current bill that we would like to see addressed.

Outlook over the next few months:

H.R. 8152 advanced out of the House Energy and Commerce Committee on July 20, 2022. The next stop is a full House vote, which has not yet been scheduled.

This bill has the support of Representatives Pallone and McMorris Rodgers as well as Senator Wicker of the Senate Commerce Committee, but Senator Cantwell, the Chair of the Senate Commerce Committee, remains strongly opposed, thus severely dampening its prospects of moving through the Senate. We continue to monitor the status of this legislation and will be ready with proposed amendments should it gain momentum.

Talking Points:

- Credit unions support the approach of this bicameral, bipartisan bill (ADPPA) that addresses both data security and data privacy. There can be no data privacy until there is strong data security.
- Credit unions support the broad inclusion of all entities handling consumer data and the use of enforcement measures to hold bad actors accountable.
- Changes to the ADPPA that would benefit credit unions include:

Expand The GLBA Exemption: The GLBA requires credit unions to comply with stringent information security and privacy practices to protect member data. These requirements are strengthened by strict oversight by state and federal regulators and robust enforcement for violations. The requirements of the ADPPA are duplicative of the protections provided by the GLBA and would compound the regulatory burden on credit unions. We ask that compliance with the strong security and privacy standards of the GLBA and its implementing regulations be deemed compliant with the ADPPA.

Completely Preempt State Privacy Law: It is crucial that a comprehensive national framework is preemptive of state data privacy laws. The current patchwork of state laws perpetuates a security system littered with weak links and leaves entities and consumers on unequal footing in protecting data. All state privacy laws should be completely preempted to ensure a single rule of the road that allows for clear guidance and authority to which covered entities are subject and to prevent confusion as to the rights of consumers.

Extend the Cure Period to all Enforcement Actions: We ask that the 45-day cure period for private rights of action be extended to all enforcement actions, including those brought by the FTC and state attorneys general. There will be a learning curve for implementation of this comprehensive national standard, and unintentional violations may occur. Allowances should be made for good faith efforts by covered entities to cure perceived violations and will aid in adherence to the aims of this Act.

Modify § 301's Data Security and Privacy Officer Requirements: We have serious concerns about the feasibility of implementing this provision and the financial burden it would impose on credit unions. There is already a shortage of qualified employees in this space, and the addition of this requirement would quickly exhaust the system and drive up the market rate for these positions, pricing out not-for-profit credit unions.

CUNA Subject Matter Expert: Madison Rose

Letters we've sent:

[July 20, 2022](#) - CUNA wrote to the House Energy and Commerce Committee prior to the mark-up of H.R. 8152, the American Data Privacy and Protection Act, and H.R. 3962, the Securing and Enabling Commerce Using Remote and Electronic Notarization Act of 2021.