

1. Florida Privacy Bill Upping Consumers' Power to Sue Passes House

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- Previous version of bill had narrower private right of action
- Senate version that doesn't allow consumers to sue has yet to pass chamber

A consumer privacy bill with an expansive private right of action passed the Florida House of Representatives on Wednesday with near unanimous approval.

[Florida House Bill 969](#), which passed 118-1, would give consumers the right to opt out of the sale of their personal information and the right to ask that data be deleted or corrected.

The measure would also allow consumers to sue for privacy violations in a much wider set of circumstances than those allowed under privacy statutes passed in California.

"The House version would be the most aggressive privacy law in the U.S.," said Al Saikali, the Miami-based chair of Shook, Hardy & Bacon LLP's privacy and data security practice. "Its private right of action and attorneys' fee provisions make it very strong."

The Virginia Consumer Data Protection Act lacks a private right of action and will be enforceable solely by the state's attorney general. The California Privacy Rights Act and its predecessor have a private right of action, but it's relatively narrow and limited to certain data breach incidents.

The Florida bill would allow consumers to sue after data breaches as well as for a company's failure to comply with deletion, opt-out, and correction requests. It also contains an attorneys' fee provision that could incentivize lawsuits and spur consumer class actions, Saikali said.

House Bill 969 was [backed](#) by Florida Gov. Ron DeSantis (R) when it was introduced in February. The bill has since been tweaked to increase the scope of its private right of action, adjust its effective date, and modify the scope of businesses that would be affected.

The bill still needs to be reconciled with the more moderate Senate version, which at this point doesn't provide for a private right of action.

"We applaud the Florida House of Representatives for advancing a privacy bill with strong enforcement and a comprehensive opt out," said Consumer Reports policy analyst Maureen Mahoney in a statement. "But the bill should also make it easy for Floridians to opt out."

Consumer Reports is calling on the Florida legislature advance a final bill that allows residents to stop the sale of their information across companies in a single step.

Florida's legislative session is set to end April 30, meaning state lawmakers have a "tight schedule" to get a law passed, said Montserrat Miller, the Atlanta-based co-chair of Arnall Golden Gregory LLP's privacy and consumer regulatory practice.

"Broadly speaking, the private right of action is going to be something that legislators will have to grapple with," Miller said. "It's an ongoing struggle with these bills nationwide."

If approved in its current form, the measure would take effect July 1, 2022.