



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 11, 2006

GOV. MSG. NO. 828

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith HB439 HD1 SD2 CD1 without my approval, and with the statement of objections relating to the measure.

HB439 HD1 SD2 CD1

A BILL FOR AN ACT RELATING TO
THE OFFICE OF THE OMBUDSMAN.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

VETO

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2005
STATE OF HAWAII

H.B. NO. 439
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE OMBUDSMAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Under current law, the ombudsman is authorized
2 to investigate administrative acts of agencies. In so doing,
3 the ombudsman may make inquiries and obtain relevant information
4 as the ombudsman deems fit. A recent opinion by the state
5 attorney general, though narrow in its interpretation, concluded
6 that state law prohibited the ombudsman from obtaining state tax
7 returns and return information in connection with the official
8 duties of the ombudsman.

9 Allowing the ombudsman access to the state tax returns and
10 return information of a taxpayer who files a complaint with the
11 ombudsman regarding the processing of the taxpayer's tax return
12 would fulfill the ombudsman's duty to investigate complaints
13 without compromising the confidentiality of tax return
14 information of taxpayers not involved in the investigation.

15 The purpose of this Act is to permit the ombudsman to
16 obtain state tax returns and return information in connection



1 (12) The ombudsman pursuant to section 231- ; and
2 [~~(12)~~] (13) Members of a limited liability company.
3 Any violation of this subsection shall be a misdemeanor.
4 Nothing in this subsection shall prohibit the publication of
5 statistics so classified as to prevent the identification of
6 particular reports or returns and the items of the reports or
7 returns."

8 SECTION 7. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

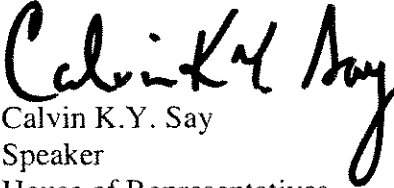
10 SECTION 8. This Act shall take effect on July 1, 2006.

HB No. 439 HD 1 SD 2 CD 1


THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 439, entitled "A Bill for an Act Relating to the Office of the Ombudsman," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 439 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 439 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 26th
day of June, 2006



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 439

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 439, entitled "A Bill for an Act Relating to the Office of the Ombudsman."

House Bill No. 439 provides the Ombudsman with access to taxpayers' confidential tax returns and return information, ostensibly to allow the Ombudsman to investigate complaints from taxpayers concerning the processing of their tax returns.

The statutory guarantee that taxpayers' returns will remain confidential promotes full compliance with Hawaii's tax laws and encourages taxpayers to voluntarily report their income from all sources. This bill unnecessarily erodes the strong statutory assurance of confidentiality that attaches to each taxpayer's tax returns.

The Department of Taxation is authorized to disclose, and routinely discloses, confidential tax returns upon the express written authorization of the taxpayer affected. Where it is necessary for the Ombudsman to investigate a complaint regarding the processing of a tax return, the Ombudsman should reasonably be able to obtain the written authorization of the complaining party.

Furthermore, the Department of Taxation Taxpayer Advocate is responsible for helping resolve tax disputes. Thus, it is possible to resolve a majority of concerns without violating the confidential arrangements for protecting taxpayer data that already exists within the Executive Branch.

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 439
Page 2

For the foregoing reasons, I am returning House Bill
No. 439 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii