

---

---

**A BILL FOR AN ACT**

RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS.

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

1 SECTION 1. This Act shall be known and may be cited as the  
2 "Records Disposal Act of 2006."

3 SECTION 2. The Hawaii Revised Statutes is amended by  
4 adding to title 26 a new chapter to be appropriately designated  
5 and to read as follows:

6 **"CHAPTER**

7 **DESTRUCTION OF PERSONAL INFORMATION RECORDS**

8 § -1 **Purpose.** Business records are a leading source of  
9 personal information for identity thieves. Any entity that  
10 maintains personal customer information as part of its business  
11 operations should establish security procedures to maintain the  
12 confidentiality and integrity of that data. A critical element  
13 of any security plan is the destruction of records containing  
14 personal information when they are being discarded. Throughout  
15 the United States, there have been repeated instances of  
16 businesses carelessly dumping boxes containing scores of  
17 customers' personal information in dumpsters. This chapter

1 seeks to protect the people of Hawaii by making such practices  
2 unlawful.

3       **§ -2 Definitions.** As used in this chapter:

4       "Business" means a sole proprietorship, partnership,  
5 corporation, association, or other group, however organized and  
6 whether or not organized to operate at a profit. Except as  
7 provided in section -3(e), the term includes a financial  
8 institution organized, chartered, or holding a license or  
9 authorization certificate under the laws of this State, any  
10 other state, the United States, or any other country, or the  
11 parent or the subsidiary of any such financial institution. The  
12 term also includes an entity whose business is records  
13 destruction. The term shall not include any government or  
14 governmental subdivision or agency.

15       "Disposal" means the discarding or abandonment of records  
16 containing personal information or the sale, donation,  
17 discarding, or transfer of any medium, including computer  
18 equipment or computer media, containing records of personal  
19 information, or other nonpaper media upon which records of  
20 personal information are stored, or other equipment for nonpaper  
21 storage of information.

1 "Personal information" means an individual's first name or  
2 first initial and last name in combination with any one or more  
3 of the following data elements, when either the name or the data  
4 elements are not encrypted:

- 5 (1) Social security number;
- 6 (2) Driver's license number or Hawaii identification card  
7 number; or
- 8 (3) Account number, credit or debit card number, access  
9 code, or password that would permit access to an  
10 individual's financial account.

11 For purposes of this section, "personal information" shall  
12 not include publicly available information that is lawfully made  
13 available to the general public from federal, state, or local  
14 government records.

15 "Records" means any material on which written, drawn,  
16 spoken, visual, or electromagnetic information is recorded or  
17 preserved, regardless of physical form or characteristics.

18 **§ -3 Destruction of personal information records. (a)**

19 Any business that conducts business in Hawaii and any business  
20 that maintains or otherwise possesses personal information of a  
21 resident of Hawaii shall take reasonable measures to protect

1 against unauthorized access to or use of the information in  
2 connection with or after its disposal.

3 (b) The reasonable measures shall include:

4 (1) Implementing and monitoring compliance with policies  
5 and procedures that require the burning, pulverizing,  
6 recycling, or shredding of papers containing personal  
7 information so that information cannot be practicably  
8 read or reconstructed;

9 (2) Implementing and monitoring compliance with policies  
10 and procedures that require the destruction or erasure  
11 of electronic media and other nonpaper media  
12 containing personal information so that the  
13 information cannot practicably be read or  
14 reconstructed; and

15 (3) Describing procedures relating to the adequate  
16 destruction or proper disposal of personal records as  
17 official policy in the writings of the business  
18 entity.

19 (c) A business may satisfy its obligation hereunder by  
20 exercising due diligence and entering into a written contract  
21 with, and thereafter monitoring compliance by, another party

1 engaged in the business of record destruction to destroy  
2 personal information in a manner consistent with this section.  
3 Due diligence should ordinarily include one or more of the  
4 following:

5 (1) Reviewing an independent audit of the disposal  
6 business's operations or its compliance with this  
7 statute or its equivalent;

8 (2) Obtaining information about the disposal business from  
9 several references or other reliable sources and  
10 requiring that the disposal business be certified by a  
11 recognized trade association or similar third party  
12 with a reputation for high standards of quality  
13 review; or

14 (3) Reviewing and evaluating the disposal business's  
15 information security policies or procedures, or taking  
16 other appropriate measures to determine the competency  
17 and integrity of the disposal business.

18 (d) A disposal business that conducts business in Hawaii  
19 or disposes of personal information of residents of Hawaii,  
20 shall take reasonable measures to dispose of records containing  
21 personal information by implementing and monitoring compliance

S.B. NO. 2292

1 with policies and procedures that protect against unauthorized  
2 access to, or use of, personal information during or after the  
3 collection and transportation and disposing of such information.

4 (e) This chapter shall not apply to any of the following:

5 (1) Any bank or financial institution that is subject to  
6 and in compliance with the privacy and security  
7 provision of the federal Gramm Leach Bliley Act, 15  
8 U.S.C. sections 6801 to 6809, as amended.

9 (2) Any health plan or healthcare provider that is subject  
10 to and in compliance with the standards for privacy of  
11 individually identifiable health information and the  
12 security standards for the protection of electronic  
13 health information of the Health Insurance Portability  
14 and Accountability Act of 1996.

15 (3) Any consumer reporting agency that is subject to and  
16 in compliance with the Fair Credit Reporting Act, 15  
17 U.S.C. sections 1681 to 1681v.

18 (f) Any person who violates or attempts to violate any  
19 provision of this chapter shall be deemed to have engaged in an  
20 unfair or deceptive act or practice in the conduct of trade or  
21 commerce within the meaning of section 480-2."

S.B. NO. 2292

1 SECTION 3. This Act shall take effect upon its approval.

2

3

INTRODUCED BY: 

4

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS.

PURPOSE: To require businesses that maintain or possess personal information of Hawaii residents to protect against unauthorized access to or use of the information after its disposal by destroying the personal information.

MEANS: Add a new chapter to title 26 of the Hawaii Revised Statutes.

JUSTIFICATION: This bill is designed to protect confidential personal information from falling into the hands of identity thieves. A leading source of personal information for identity thieves is business records. Any entity that maintains personal customer information as part of business operations should establish security procedures to maintain the confidentiality and integrity of that data. A critical element of any security plan is the destruction of records containing personal information when they are being discarded. Nationwide there have been repeated instances of businesses simply dumping boxes containing scores of customers' personal information in dumpsters. This bill will make this practice unlawful.

Impact on the public: This measure will enhance personal privacy by prohibiting businesses from disposing of personal data in an improper manner.

Impact on the department and other agencies: This bill will assist law enforcement in its battle against identity theft by helping to prevent identity thieves from improperly accessing personal information.



# SB. NO. 2292

Page 2

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-110.

OTHER AFFECTED  
AGENCIES: Federal Trade Commission; County Police  
Departments.

EFFECTIVE DATE: Upon approval.