



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  
22 engaged in the business of record destruction to destroy



1 personal information in a manner consistent with this section.

2 Due diligence should ordinarily include one or more of the  
3 following:

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

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

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

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



1 access to, or use of, personal information during or after the  
2 collection and transportation and disposing of such information.

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

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

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

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

17 (f) Any person who violates any provision of this chapter  
18 shall be deemed to have engaged in an unfair or deceptive act or  
19 practice in the conduct of trade or commerce within the meaning  
20 of section 480-2. The attorney general or the director of the  
21 office of consumer protection may bring an action based upon



1 unfair or deceptive acts or practices declared unlawful by this  
2 section."

3 SECTION 3. This Act shall take effect on January 1, 2007.



**Report Title:**

Identity Theft; Prevention

**Description:**

Requires 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. (SD1)

