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

4 "CHAPTER

5 DESTRUCTION OF PERSONAL INFORMATION RECORDS

6 § -1 Purpose. Business records are a leading source of
7 personal information for identity thieves. Any entity that
8 maintains personal customer information as part of its business
9 operations should establish security procedures to maintain the
10 confidentiality and integrity of that data. A critical element
11 of any security plan is the destruction of records containing
12 personal information when they are being discarded. Throughout
13 the United States, there have been repeated instances of
14 businesses carelessly dumping boxes containing scores of
15 customers' personal information in dumpsters. This chapter
16 seeks to protect the people of Hawaii by making such practices
17 unlawful.

18 § -2 Definitions. As used in this chapter:

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

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

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

- 22 (1) Social security number;

1 (2) Driver's license number or Hawaii identification card
2 number; or

3 (3) Account number, credit or debit card number, access
4 code, or password that would permit access to an
5 individual's financial account.

6 For purposes of this section, "personal information" shall
7 not include publicly available information that is lawfully made
8 available to the general public from federal, state, or local
9 government records.

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

13 § -3 Destruction of personal information records. (a)
14 Any business that conducts business in Hawaii and any business
15 that maintains or otherwise possesses personal information of a
16 resident of Hawaii shall take reasonable measures to protect
17 against unauthorized access to or use of the information in
18 connection with or after its disposal.

19 (b) The reasonable measures shall include:

20 (1) Implementing and monitoring compliance with policies
21 and procedures that require the burning, pulverizing,
22 recycling, or shredding of papers containing personal

1 information so that information cannot be practicably
2 read or reconstructed;

3 (2) Implementing and monitoring compliance with policies
4 and procedures that require the destruction or erasure
5 of electronic media and other nonpaper media
6 containing personal information so that the
7 information cannot practicably be read or
8 reconstructed; and

9 (3) Describing procedures relating to the adequate
10 destruction or proper disposal of personal records as
11 official policy in the writings of the business
12 entity.

13 (c) A business may satisfy its obligation hereunder by
14 exercising due diligence and entering into a written contract
15 with, and thereafter monitoring compliance by, another party
16 engaged in the business of record destruction to destroy
17 personal information in a manner consistent with this section.
18 Due diligence should ordinarily include one or more of the
19 following:

20 (1) Reviewing an independent audit of the disposal
21 business's operations or its compliance with this
22 statute or its equivalent;



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1 (2) Obtaining information about the disposal business from
2 several references or other reliable sources and
3 requiring that the disposal business be certified by a
4 recognized trade association or similar third party
5 with a reputation for high standards of quality
6 review; or

7 (3) Reviewing and evaluating the disposal business's
8 information security policies or procedures, or taking
9 other appropriate measures to determine the competency
10 and integrity of the disposal business.

11 (d) A disposal business that conducts business in Hawaii
12 or disposes of personal information of residents of Hawaii,
13 shall take reasonable measures to dispose of records containing
14 personal information by implementing and monitoring compliance
15 with policies and procedures that protect against unauthorized
16 access to, or use of, personal information during or after the
17 collection and transportation and disposing of such information.

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

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



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1 The court, in any action brought under this section, may award
2 reasonable attorneys' fees to the prevailing party."

3 SECTION 2. This Act shall take effect on January 1, 2007.



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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. (SD2)

