

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 1871
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Judiciary and Consumer Protection & Commerce, to which was referred H.B. No. 1871 entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER CREDIT REPORTING AGENCIES,"

beg leave to report as follows:

The purpose of this bill is to protect consumers by allowing a victim of identity theft to place a "security freeze" on the individual's credit reports, thereby prohibiting a consumer credit reporting agency from releasing information about the individual without the individual's express consent.

The Department of Commerce and Consumer Affairs, Honolulu Police Department, and Department of the Prosecuting Attorney of the City and County of Honolulu testified in support of this bill. The Hawaii Bankers Association and Retail Merchants of Hawaii supported the intent of this measure. Consumer Data Industry Association and State Farm Insurance Companies offered comments.

Your Committees have amended this bill by:

- (1) Amending the definition of "credit report" by:
 - (a) Extending the definition to include any information, and not just credit information, that bears on a consumer's credit worthiness, credit standing, credit capacity, character, general



672

reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit; and

- (b) Removing the reference to the federal Fair Credit Reporting Act in the definition of "credit report";
- (2) Extending the definition of "credit reporting agency" to include:
 - (a) The use of any means or facility of interstate commerce to prepare or furnish consumer reports; and
 - (b) Governmental agencies that maintain records primarily for law enforcement or licensing purposes;
 - (3) Renaming "credit report" and "credit reporting agency" to "consumer report" and "consumer reporting agency", respectively, and replacing all instances of these terms as appropriate;
 - (4) Redefining "identity theft" by making reference to section 708-839.6, 708-839.7, or 708-839.8, Hawaii Revised Statutes (HRS);
 - (5) Specifying that a "security freeze" prohibits a consumer reporting agency from releasing the consumer report or score relating to an extension of credit;
 - (6) Permitting the consumer to allow access to the consumer report for a specific period of time while the security freeze is in place, rather than permitting the consumer to allow specific parties to access it;
 - (7) Allowing persons or entities, despite a security freeze, to access a consumer report for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes;
 - (8) Revising the penalties for violation of the law relating to security freezes, as follows:



- (a) Deleting the reference to section 480-2, HRS; and
- (b) Requiring the person in violation to be liable for damages to the consumer, in varying amounts and depending on willful or negligent non-compliance;
- (9) Changing the effective date to January 1, 2096, to encourage further discussion; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1871, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1871, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Consumer Protection & Commerce,



ROBERT N. HERKES, Chair



SYLVIA LUKE, Chair



