

Honolulu, Hawaii

**APRIL 27** , 2006

RE: S.B. No. 2290  
S.D. 2  
H.D. 1  
C.D. 1

Honorable Robert Bunda  
President of the Senate  
Twenty-Third State Legislature  
Regular Session of 2006  
State of Hawaii

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

Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2290, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROTECTION FROM SECURITY BREACHES,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to protect individuals from identity theft by requiring businesses and government agencies that maintain records containing personal information to notify Hawaii residents when the safety of the resident's personal information has been compromised by an unauthorized disclosure.

In 2005, the Hawaii Anti-Phishing Task Force was established to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. Your Committee on Conference finds that this measure seeks to ameliorate the growing plague of identity theft by requiring



businesses and government agencies that maintain records containing an individual's personal information to notify that individual of a security breach. Your Committee on Conference further finds that this measure provides guidance to businesses and government agencies as to the security breach notification requirements and will provide valuable tools that Hawaii residents can use to protect themselves against becoming a victim of identity theft.

Your Committee on Conference has amended this measure by:

- (1) Amending the definition of "security breach" by clarifying that a security breach includes an incident where illegal use of personal information has occurred, or is reasonably likely to occur and creates a risk of harm to a person;
- (2) Amending § -2(e)(4) by changing the triggers for substitute notice by changing the cost of providing notice from \$250,000 to \$100,000 and changing the size of the class of affected individuals from five hundred thousand to two hundred thousand;
- (3) Amending the penalty provisions to:
  - (A) Allow the Attorney General or the Executive Director of the Office of Consumer Protection to bring a cause of action against any business that violates any provision of this measure, and to seek a penalty of not more than \$2,500 for each violation;
  - (B) Allow a private cause of action for a sum equal to the actual damages sustained by the injured party; and
  - (C) Allow the court to award reasonable attorneys' fees to the prevailing party, and clarify that both penalty actions cannot be brought against a government agency;
- (4) Requiring government agencies to submit a detailed written report to the Legislature within twenty days after discovering the security breach at the government agency, unless the report will impede a criminal investigation;
- (5) Changing the effective date from July 1, 2050 to January 1, 2007; and



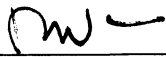
- (6) Making nonsubstantive, technical amendments for style and format of the Hawaii Revised Statutes.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2290, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2290, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



ROBERT N. HERKES, Co-Chair



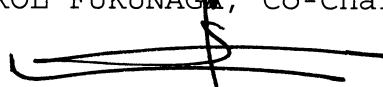
SYLVIA LUKE, Co-Chair



RON MENOR, Chair



CAROL FUKUNAGA, Co-Chair



COLLEEN HANABUSA, Co-Chair



**Hawaii State Legislature**

**Record of Votes of a  
Conference Committee**

Bill / Concurrent Resolution No.: <b>SB 2290, SD 2, HD 1</b>	Date/Time: <b>4/27/06</b> <span style="float:right"><b>S:45p</b></span>
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
MENOR, Ron, Chr.				✓	HERKES, Robert N., Co-Chr.	✓			
FUKUNAGA, Carol, Co-Chr.	✓				LUKE, Sylvia, Co-Chr.	✓			
HANABUSA, Colleen, Co-Chr.	✓				MARUMOTO, Barbara C.	✓			
BAKER, Rosalyn H.				✓					
HOGUE, Bob	✓								
<b>TOTAL</b>	<b>3</b>			<b>2</b>	<b>TOTAL</b>	<b>3</b>			

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
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**Distribution:**      Original      Yellow      Pink      Goldenrod  
 File with Conference Committee Report      House Clerk's Office      Senate Clerk's Office      Drafting Agency