

Honolulu, Hawaii

APRIL 27 , 2006

RE: S.B. No. 2293
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. 2293, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBER PROTECTION,"

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 restrict businesses and government agencies, subject to limited exceptions, from disclosing an individual's social security number to the general public, and establishing penalties for noncompliance.

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. One of the tools most often used to steal an individual's identity is that individual's social security number. Your Committee on Conference finds that this measure will provide

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guidelines and procedures for businesses and government agencies that collect, possess, or use social security numbers in the course of its legitimate business or governmental purposes to prevent the unauthorized disclosure of these social security numbers.

Your Committee on Conference has amended this measure by:

- (1) Deleting the short title, "Social Security Number Protection Act of 2006" to conform with the style and format of the Hawaii Revised Statutes;
- (2) Deleting the provision that excludes government agencies from the definition for "business";
- (3) Deleting the definition for "state" and replacing it with a definition for "government agency," which also broadens its scope to include county agencies;
- (4) Deleting references to "state" (meaning agencies of the State) throughout this measure and replacing it with "government agency";
- (5) Amending § -2(a)(5) of the new chapter to include materials that are employer-to-employee communications, and when the printing of an individual's entire social security number is specifically requested by that individual;
- (6) Deleting the provision under § -2(a) that prohibits businesses and government agencies selling, leasing, loaning, trading, renting, or otherwise intentionally disclosing an individual's social security number to a third party if that third party lacks a legitimate purpose for obtaining the social security number;
- (7) Amending § -2(b)(1)(E) of the new chapter to include that the inclusion of a social security number in documents that are mailed is allowed if it is used to confirm the accuracy of the social security for the purpose of obtaining a credit report pursuant to 15 U.S.C. section 1681(b);
- (8) Correcting the citation for the Fair Credit Reporting Act under § -2(b)(3);



- (9) Amending § -2(b)(4) of the new chapter to clarify that § -2(a) shall not apply to a business or government agency that is acting pursuant to a court order, warrant, subpoena, or when otherwise required by law;
- (10) Amending § -2(b)(5) of the new chapter to clarify that § -2(a) shall not apply to a business or government agency that is providing an individual's social security number to a federal, state, or local government entity;
- (11) Amending § -2(b) of the new chapter to include that § -2(a) shall not apply to the collection, use, or release of a social security number in the course of administering an employment claim, benefit, or procedure;
- (12) 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 the 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;
- (13) Requiring government agencies to submit a written report to the Legislature within twenty days after discovering a material occurrence of a social security number disclosure that is prohibited by the new chapter, unless the report will impede a criminal investigation;
- (14) Changing the effective date from July 2096 to July 1, 2007; and
- (15) Making nonsubstantive, technical amendments for style and format of the Hawaii Revised Statutes.

Your Committee on Conference encourages further review on the issue of the sale, lease, loan, trade, rent, or other intentional




disclosure of an individual's social security number to a third party that may lack a legitimate purpose for obtaining the individual's social security number. Therefore, your Committee on Conference recommends that the Identity Theft Task Force, established under H.B. 3244 in its final amended form, reviews and continues further discussion on this issue.

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. 2293, 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. 2293, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

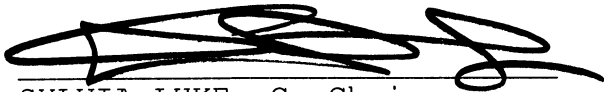
ON THE PART OF THE SENATE



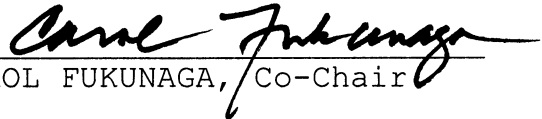
ROBERT N. HERKES, Co-Chair



RON MENOR, Chair



SYLVIA LUKE, Co-Chair



CAROL FUKUNAGA, Co-Chair



Hawaii State Legislature

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 2293, SD 2, HD 1	Date/Time: 4/27/06 5:30 PM
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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.	✓			
BAKER, Rosalyn H.	✓				MARUMOTO, Barbara C.	✓			
HOGUE, Bob	✓								
TOTAL	4				TOTAL	3			

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 checked="" 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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