
A BILL FOR AN ACT

MAKING AN APPROPRIATION TO THE CITY AND COUNTY OF HONOLULU.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2006, the legislature passed and Governor
2 Linda Lingle signed into law several bills to provide increased
3 protection to Hawaii residents from identity theft. Several of
4 these laws directly impact Hawaii businesses. First, Act 135,
5 Session Laws of Hawaii 2006, relating to protection from
6 security breaches, requires businesses and government agencies
7 that keep confidential personal information about consumers to
8 notify those consumers if that information has been compromised
9 by an unauthorized disclosure. Second, Act 136, Session Laws of
10 Hawaii 2006, relating to destruction of personal information
11 records, requires businesses and government agencies to take
12 reasonable measures to protect against unauthorized access to an
13 individual's personal information when disposing of the records
14 they keep. Finally, Act 137, Session Laws of Hawaii 2006,
15 relating to social security number protection, restricts
16 businesses and government agencies from disclosing consumers'
17 social security numbers to the general public. All of these
18 Acts share the common goal of protecting individuals from



1 exposure to identity theft through the imposition of limitations
2 and restrictions on the use and disclosure of personal
3 information.

4 The legislature finds that pursuant to these Acts,
5 "personal information" means an individual's first name or first
6 initial and last name in combination with any one or more of the
7 following data elements, when either the name or the data
8 elements are not encrypted:

- 9 (1) Social security number;
- 10 (2) Driver's license number or Hawaii identification card
11 number; or
- 12 (3) Account number, credit or debit card number, access
13 code, or password that would permit access to an
14 individual's financial account.

15 Furthermore, "personal information" does not include
16 publicly available information that is lawfully made available
17 to the general public from federal, state, or local government
18 records. Since "personal information" is specifically defined,
19 records containing that information must be protected.

20 Furthermore, "records" means any material on which written,
21 drawn, spoken, visual, or electromagnetic information is
22 recorded or preserved, regardless of physical form or



1 characteristics. This broad definition includes data appearing
2 on paper and in computers, including hard drives and computer
3 disks.

4 Consequently, if a business is in possession of "personal
5 information" contained in records that it maintains, the
6 business must properly dispose of the records. Furthermore, a
7 business may satisfy this mandate by exercising "due diligence"
8 and entering into a written contract with, and thereafter
9 monitoring compliance by, another party engaged in the business
10 of record destruction.

11 Additionally, since a breach of the destruction provisions
12 may also invoke the provisions of the security breach
13 notification provisions of Act 135, an affected business must
14 refer to that Act to determine whether additional action is
15 required.

16 The legislature further finds that the purpose of Act 137
17 is to minimize the abuses associated with the fraudulent use of
18 a social security number by attempting to restrict its use as an
19 identifier. To provide businesses and government agencies time
20 to comply with the law, Act 137 is scheduled to take effect on
21 July 1, 2008. Pursuant to Act 137, a business shall not:



- 1 (1) Intentionally communicate or otherwise make available
2 to the general public an individual's entire social
3 security number;
- 4 (2) Intentionally print or imbed an individual's entire
5 social security number on any card required for the
6 individual to access products or services provided by
7 the person or entity;
- 8 (3) Require an individual to transmit the individual's
9 entire social security number over the Internet,
10 unless the connection is secure or the social security
11 number is encrypted;
- 12 (4) Require an individual to use the individual's entire
13 social security number to access an Internet website,
14 unless a password or unique personal identification
15 number or other authentication device is also required
16 to access the Internet website; or
- 17 (5) Print an individual's entire social security number on
18 any materials that are mailed to the individual,
19 unless the materials are employer-to-employee
20 communications, or where specifically requested by the
21 individual.



1 On the other hand, Act 137 recognizes several permissible
2 uses of social security numbers, such as:

3 (1) Inclusion of a social security number in documents
4 that are mailed and:

5 (A) The documents are specifically requested by the
6 individual identified by the social security
7 number;

8 (B) Social security numbers are required by state or
9 federal law to be on the document;

10 (C) Social security numbers are required as part of
11 an application or enrollment process;

12 (D) Social security numbers are used to establish,
13 amend, or terminate an account, contract, or
14 policy; or

15 (E) Social security numbers are used to confirm the
16 accuracy of the social security number for the
17 purpose of obtaining a credit report pursuant to
18 the Fair Credit Reporting Act, as set forth in 15
19 U.S.C. Section 1681(b);

20 (2) Use of a social security number in the opening of an
21 account or the provision of or payment for a product
22 or service authorized by an individual;



- 1 (3) Collection, use, or release of a social security
2 number to investigate or prevent fraud, conduct
3 background checks, conduct social or scientific
4 research, collect a debt, obtain a credit report from
5 or furnish data to a consumer reporting agency
6 pursuant to the Fair Credit Report Act (15 United
7 States Code Sections 1681 to 1681x, as amended),
8 undertake a permissible purpose enumerated under the
9 federal Gramm Leach Bliley Act (15 United States Code
10 Sections 6801 to 6809, as amended), locate an
11 individual who is missing or due a benefit, such as a
12 pension, insurance, or unclaimed property benefit, or
13 locate a lost relative;
- 14 (4) Use of a social security number by a business or
15 government agency acting pursuant to a court order,
16 warrant, subpoena, or when otherwise required by law;
- 17 (5) Provision of a social security number by a business or
18 government agency to a federal, state, or local
19 government entity, including a law enforcement agency
20 or court, or their agents or assigns;
- 21 (6) Collection, use, or release of a social security
22 number in the course of administering a claim,



1 benefit, or procedure relating to an individual's
2 employment, including an individual's termination from
3 employment, retirement from employment, injuries
4 suffered during the course of employment, and other
5 related claims, benefits, or procedures;

6 (7) Collection, use, or release of a social security
7 number required by state or federal law;

8 (8) The sharing of a social security number between or
9 among business affiliates;

10 (9) Use of a social security number for internal
11 verification or administrative purposes;

12 (10) Redaction of the social security number; or

13 (11) Inclusion of the social security number in documents
14 or records that are recorded or required to be open to
15 the public pursuant to the constitution or laws of the
16 State or court rule or order.

17 The legislature also finds that notwithstanding the foregoing
18 exceptions recognized under Act 137, a social security number
19 that is permitted to be mailed may not be printed, in whole or
20 in part, on a postcard or other mailer not requiring an envelope
21 or may not be visible either on the envelope or without the
22 envelope having been opened.



1 The legislature finds that the city and county of Honolulu
2 runs the computer systems to support statewide systems relating
3 to driver's licensing, motor vehicle registration, voter
4 registration, the juvenile justice system, and various other
5 support systems.

6 The purpose of this Act is to appropriate funds to the city
7 and county of Honolulu to enable the city and county to secure
8 the data identified in Acts 135, 136, and 137, Session Laws of
9 Hawaii 2006.

10 SECTION 2. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$1 or so much thereof
12 as may be necessary for fiscal year 2008-2009 for the
13 development of a data encryption system for the city and county
14 of Honolulu; provided that:

15 (1) The funds shall be used to procure hardware, software,
16 and the design of the system;

17 (2) The city and county of Honolulu shall provide
18 staffing, facilities, and related infrastructure to
19 encrypt the data for all city and county of Honolulu
20 systems; and

21 (3) The department of information technology, of the city
22 and county of Honolulu, shall work with the department



1 of accounting and general services to establish
2 necessary rules to ensure ongoing support.

3 The sum appropriated shall be expended by the city and
4 county of Honolulu for the purposes of this Act.

5 SECTION 3. This Act shall take effect on July 1, 2008.



Report Title:

City and County; Appropriation

Description:

Appropriates funds to the city and county of Honolulu for the development of a data encryption system. (HB2712 HD1)

