

JAN 23 2008

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# 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. (a) In 2006, the legislature passed and  
2 Governor Linda Lingle signed into law several bills to provide  
3 increased protection to Hawaii residents from identity theft.  
4 Several of these acts directly impact Hawaii businesses. First,  
5 Act 135, Session Laws of Hawaii 2006, relating to protection  
6 from security breaches, requires businesses and government  
7 agencies that keep confidential personal information about  
8 consumers to notify those consumers if that information has been  
9 compromised by an unauthorized disclosure. Second, Act 136,  
10 Session Laws of Hawaii 2006, relating to destruction of personal  
11 information records, requires businesses and government agencies  
12 to take reasonable measures to protect against unauthorized  
13 access to an individual's personal information when disposing of  
14 the records they keep. Finally, Act 137, Session Laws of Hawaii  
15 2006, relating to social security number protection, restrict  
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 them. Furthermore, a business  
7 may satisfy this mandate by exercising "due diligence" and  
8 entering into a written contract with, and thereafter monitoring  
9 compliance by, another party engaged in the business of record  
10 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 the following:

3           (1) The social security number is included 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 to be mailed;

10          (C) Social security numbers are required in 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) The social security number is used in the opening of  
21 an account or the provision of or payment for a  
22 product or service authorized by an individual;



- 1           (3) The social security number is collected, used, or  
2           released 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 U.S.C.  
7           sections 1681 to 1681x, as amended), undertake a  
8           permissible purpose enumerated under the federal Gramm  
9           Leach Bliley Act (15 U.S.C. sections 6801 to 6809, as  
10          amended), locate an individual who is missing or due a  
11          benefit, such as a pension, insurance, or unclaimed  
12          property benefit, or locate a lost relative;
- 13          (4) The social security number is used by a business or  
14          government agency acting pursuant to a court order,  
15          warrant, subpoena, or when otherwise required by law;
- 16          (5) The social security number is provided by a business  
17          or government agency to a federal, state, or local  
18          government entity, including a law enforcement agency  
19          or court, or their agents or assigns;
- 20          (6) The social security number is collected, used, or  
21          released in the course of administering a claim,  
22          benefit, or procedure relating to an individual's



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

5 (7) The social security number is collected, used, or  
6 released as required by state or federal law;

7 (8) The social security number is shared between or among  
8 business affiliates;

9 (9) The social security number is used for internal  
10 verification or administrative purposes;

11 (10) The social security number is redacted; or

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

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



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

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

10 SECTION 2. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$1,250,000 or so much  
12 thereof 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







**Report Title:**

City and County; Appropriation

**Description:**

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

