

Honolulu, Hawaii

FEB 28 2008

RE: S.B. No. 2059

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2059 entitled:

"A BILL FOR AN ACT RELATING TO INFORMATION PRACTICES,"

begs leave to report as follows:

The purpose of this measure is to protect from public disclosure certain information compiled as part of an inquiry into an individual's fitness to be granted or to retain a professional or vocational license.

Under this measure, records of complaints would not be disclosed unless proceedings resulted in discipline.

The Consumer Data Industry Association, the Hawaii Association of Realtors, the Hawaii Dental Association, and two concerned individuals submitted testimony in support of this measure. The Department of Commerce and Consumer Affairs provided comments.

Section 92F-12, Hawaii Revised Statutes, generally requires government records to be made available for public inspection. Section 92F-13(1), Hawaii Revised Statutes, provides an exception for "government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy." Where "the public interest in disclosure outweighs the privacy interest of the individual," section 92F-14(a), Hawaii Revised Statutes, holds that disclosure is not a "clearly unwarranted invasion of personal privacy."



According to section 92F-14(b), Hawaii Revised Statutes, "examples of information in which the individual has a significant privacy interest," include "information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license," except for, among other things, "the record of any proceeding resulting in discipline of a licensee and the grounds for discipline" and "the record of complaints including all dispositions." This measure deletes the latter exception.

Your Committee finds that internet access to unsubstantiated allegations filed prior to the conclusion of a formal investigation, and records of proceedings that did not result in disciplinary action, can adversely affect a licensee's reputation. However, your Committee is mindful of the concerns raised in the testimony of the Department of Commerce and Consumer Affairs regarding the Regulated Industries Complaints Office. Your Committee does not intend the amendments made by this measure to apply to: investigative and expert witnesses who may possess information or documentary evidence relating to a pending investigation; other divisions within the Department of Commerce and Consumer Affairs, including the Professional and Vocational Licensing Division and the Office of Administrative Hearings; nor the licensing boards.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2059 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


BRIAN T. TANIGUCHI, Chair



