



LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

LAWRENCE M. REIFURTH  
DIRECTOR  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEES ON CONSUMER PROTECTION  
AND COMMERCE AND JUDICIARY

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Thursday, January 31, 2008  
3:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 2749 – RELATING TO PERSONAL  
INFORMATION**

**WRITTEN ONLY**

TO THE HONORABLE ROBERT HERKES AND TOMMY WATERS, CHAIRS, AND  
MEMBERS OF THE COMMITTEES:

My name is Lawrence Reifurth, Director of Commerce and Consumer Affairs, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department appreciates the opportunity to discuss its concerns with the proposal to locate the Information Privacy and Security Council (“Council”) within the Department.

The Department takes no position on the substance of the bill at this time. At present, we lack the big picture view that would enable us to determine the extent of the problem or whether the Council itself is a good idea. Instead, we focus on the proposal that the Council be located within DCCA.

The Council’s work does not fit well within the Department’s focus on business regulation and consumer protection. The personal information that the Council is

intended to protect is not that of “consumers”, and the proposal cuts across departmental lines, and is outside the scope of business regulation.

We are also concerned about the program’s funding source. The Department, of course, is specially funded. Our customers pay for the services they receive from us. Those moneys are deposited into the Compliance Resolution Fund (“CRF”), the Department’s special fund. The CRF has enabled the Department to be self-sufficient. For the most part, the Department does not receive general fund moneys.

H.B. No. 2749 includes a general fund appropriation to pay for the activities of the Council for the 2008-2009 fiscal year. We defer to the Department of Budget and Finance as to whether the proposed expenditure is consistent with the Administration’s budget priorities. Nevertheless, if the Council is to remain funded through the general fund, it would be inconsistent with our structure and the only program of this sort within DCCA.

Certainly the Council should not be funded by the CRF. It has no logical nexus to the department’s activities and our current customers would strongly object to having their registration, license, and complaint fees go toward a program of this sort. If the bill moves forward, we recommend that the Council should be placed with a general funded agency, perhaps one that services other government agencies, as one of the Council’s proposed responsibilities is to provide guidance to other government agencies.

I would also like to mention that the bill does not specify the number of members on the Council. Additionally, there appears to be a typographical error in the prefatory language in section 7 of the bill. Specifically, page 8, line 7, makes reference to Act 184, SLH 2007. It should be Act 183, SLH 2007.

I would like to thank the Committee for the opportunity to present testimony on this matter and respectfully request that the bill be amended by placing the Council with a more appropriate agency.



**Testimony to the Twenty-Fourth State Legislature, 2008 Session**  
House Committee on Consumer Protection & Commerce  
The Honorable Robert N. Herkes, Chair  
The Honorable Angus L.K. McKelvey, Vice Chair

House Committee on Judiciary  
The Honorable Tommy Waters, Chair  
The Honorable Blake K. Oshiro, Vice Chair

Thursday, January 31, 2008, 3:00 p.m.  
State Capitol, Conference Room 325

by

Thomas R. Keller  
Administrative Director of the Courts

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 2749, Relating to Personal Information.

**Purpose:** The purpose of House Bill No. 2749 is to implement the recommendations of the December 2007 report of the Hawaii identity theft task force.

**Judiciary's Position:**

The Judiciary supports the intent of this bill. House Bill No. 2749 establishes a comprehensive plan for the security of social security numbers and other personal information maintained by state government agencies. The Judiciary recognizes the need to protect against identity theft, and has already taken the initiative to implement practices similar to some procedures described in the bill.

The Judiciary submits the following comments on Sections 9, 10, 14 and 15 of the bill:

Section 9 requires that government contracts for the performance of support services by third party vendors include provisions relating to the protection of personal information. The term "support services" may be too broad. There are many contracts, such as equipment maintenance or staff training, that may be considered support service contracts, but do not require the vendor to have access to personal information. Unless "support services" is further



House Bill No. 2749, Relating to Personal Information  
House Committee on Consumer Protection & Commerce  
House Committee on Judiciary  
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defined, there may be confusion on whether provisions for protecting personal information must be included in all support service contracts, even when the vendor does not have access to personal information.

Section 9 also specifies the types of provisions that must be in the contract. Many vendors have comprehensive security policies that may not necessarily include all of the provisions required by the bill. Yet, these policies are adequate for the services to be provided under the contract. The bill should establish guidelines, rather than requirements, for security provisions in government contracts. This approach would give agencies and vendors the flexibility to negotiate specific conditions, applicable to their particular contract, for the protection of personal information.

Section 10 of the bill requires agencies to develop and implement plans to protect and redact personal information before disclosing documents within the scope of Hawaii Revised Statutes (HRS) section 92F-12. HRS chapter 92F, however, includes provisions that prevent disclosure of personal information. HRS section 92F-14(b) lists the types of information, including social security numbers, in which individuals have a significant privacy interest. Pursuant to HRS section 92F-13(1), information in which individuals have a significant privacy interest is not subject to disclosure. The Judiciary's experience, both internally and with other agencies, is that government agencies are familiar with the provisions of HRS sections 92F-13 and 92F-14. Personal information is routinely redacted before government records are made available for public inspection.

Section 14 requires that agencies with primary responsibility for human resource functions develop recommended practices to minimize unauthorized access to personal information in various areas, such as personnel recruitment and payroll. The recommended practices must also include technical safeguards to ensure confidentiality of electronically transmitted information.

Human resource staff do not necessarily have the expertise to develop recommended practices in all of the areas described in Section 14. For example, human resource personnel do not have the expertise to make recommendations on best practices to safeguard electronically transmitted information. This section should provide agency heads and directors with more flexibility to designate the appropriate personnel to develop recommended practices.

Section 15 requires government agencies to develop written policies on notification of security breaches of personal information, including contents of the notification and manner in which notification shall be provided. This section duplicates HRS chapter 487N, which establishes legal requirements that government agencies must comply with in the event of a security breach of personal information.

Thank you for the opportunity to testify on House Bill No. 2749.

Date of Hearing: January 31, 2008

Committees: House Consumer Protection &  
Commerce and Judiciary

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: H.B. 2749, Relating to personal information.

Purpose: To implement the recommendations of the 12/2007 report of the Hawaii Identity Theft Task Force to protect the security of personal information collected and maintained by state and county government.

Department's Position: The Department of Education (Department) supports H.B. 2749 to protect the security of personal information collected and maintained by the State and counties. As a member of the task force, the Department recognizes the need for security measures to be enforced to protect personnel information. The Department has initiated several measures outlined by the report and will continue to enhance our existing technology and personnel management system. Additional resources will be necessary as we continue to implement the recommendations of the task force. However, funding priority must be given to the Board of Education's supplemental operating budget request before this measure is considered.

# UNIVERSITY OF HAWAI‘I SYSTEM LEGISLATIVE TESTIMONY



HB 2749 RELATING TO PERSONAL INFORMATION

Testimony Presented Before the  
House Committee on Consumer Protection & Commerce and  
House Committee on Judiciary

January 31, 2008 at 3:00pm

by

David Lassner  
Vice President for Information Technology and Chief Information Officer  
University of Hawai'i System

Testimony Presented Before the  
House Committee on Consumer Protection & Commerce and  
House Committee on Judiciary

January 31, 2008 at 3:00pm

by

David Lassner

Vice President for Information Technology and Chief Information Officer  
University of Hawai'i

HB 2749 Relating to Personal Information

Chairs Herkes and Waters, Vice Chairs McKelvey and Oshiro and Members of the Committee:

The University applauds the Legislature's interest in protecting Hawai'i's citizenry. Nonetheless, the University is disappointed that the focus of this legislation is on governmental data breaches rather than in protection against identity theft. Actual data continues to demonstrate that most losses of personal information are not the result of governmental data breaches, that most data breaches do not lead to identity theft, and that most identity theft does not result from data breaches.

While government agencies, including the University, must protect the personal information with which they are entrusted, the continued focus on data breaches by government agencies is not likely to have significant impact on the very real problem of identity theft. That would require changes in the credit industry, which is where identity theft actually occurs. This is of course a more difficult target for reform.

In the spirit of supporting improved protection of personal information held in the public sector, the University offers the following questions and comments:

1) The University strongly urges against the creation of the Annual Report on Systems with Personal Information (Proposed as §487N-C). The very creation of such a report simply creates new risks for Hawai'i's citizens by establishing a convenient "one-stop shop" for interested hackers and criminals who are targeting personal information in Hawai'i. Any perceived value in creating such a report is more than outweighed by the new risks created.

2) Regarding the establishment of a new information privacy and security council: While the appropriation of funds for three new staff analysts will be of immense assistance, the Council seems doomed to failure in achieving the milestones in the current measure. If it is appointed by September 1, 2008 it will be almost impossible to complete substantive work with deadlines of January 1, 2009, March 31, 2009, June 30, 2009 and July 31, 2009. Particularly if there are any delays in hiring the three

analysts who will have to do the bulk of the work.

3) Finally, the University notes that a number of new compliance mandates are established in this bill without funding. While the bill invites agencies to prepare budget requests for addressing certain requirements, it would seem more reasonable to link full compliance with the necessary funding the Legislature recognizes will be necessary.

The University takes the protection of personal information very seriously and looks forward to working with the Legislature this session to craft legislation that will actually protect Hawai'i's citizen's from identity theft.





Representative Robert Herkes, Chair  
Representative Angus McKelvey, Vice Chair  
Committee on Consumer Protection & Commerce

Representative Tommy Waters, Chair  
Representative Blake Oshiro, Vice Chair  
Committee on Judiciary

State Capitol, Honolulu, Hawaii 96813

HEARING      Thursday, January 31, 2008  
                    3:00 pm  
                    Conference Room 325

**RE:    HB2749, Relating to Personal Information**

Chairs Herkes and Waters, Vice Chairs McKelvey and Oshiro, and Members of the Committees:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH strongly supports HB 2749**, which implements the recommendations of the Identity Theft Task Force.

As a member of the Identity Theft Task Force, representing retail and the small business community, I was enlightened and sometimes appalled with the complexity of the issues and the gravity of the concerns of government and private industry. HB 2749 provides recommendations, guidelines and best practice solutions that will help us all accomplish our goals.

Thank you for your consideration and for the opportunity to comment on this measure.

President

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

January 31, 2008

Rep. Robert N. Herkes, Chair,  
and members of the House Committee on Consumer Protection & Commerce  
Rep. Tommy Waters, Chair  
and members of the House Committee on Judiciary  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **House Bill 2749 (Personal Information)**  
**Hearing Date/Time: Thursday, January, 31, 2008, 3:00 P.M.**

I am the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies.

The HFSA **supports** this Bill.

The purpose of this Bill is to implement recommendations of the December 2007 report of the Hawaii Identity Theft Task Force to protect the security of personal information collected and maintained by the State and County governments. The December 2007 Report of the Identity Theft Task Force is a continuation of the work that started with the State's Anti-Phishing Task Force which was created in 2005.

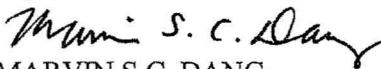
I was appointed by the Senate President to be a member of the Hawaii Identity Theft Task Force as a representative of the financial services industry. I served as Vice Chair of that Task Force. I was also a Senate President appointee of the predecessor Anti-Phishing Task Force.

The members of the Identity Theft Task Force agreed that much needs to be done within the State and County governments to protect people's personal information that exist in government records. For example, social security numbers and other personal information are easily available to the public in the Judiciary's court files and at the Bureau of Conveyances. The Report's recommendations address these concerns. Safeguarding the personal information of our citizens needs to be given a high priority.

I offer 2 technical suggestions:

1. Page 14, line 17: "mange" should be "manage", and
2. Page 14, line 21: "Physical safeguards" should be "Physical security standards" to be consistent with the reference on line 3 on the same page.

Thank you for considering this testimony.

  
MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)