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TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT
AND TAXATION
AND JUDICIARY AND LABOR

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, February 5, 2008
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2803 – RELATING TO PERSONAL
INFORMATION**

WRITTEN ONLY

TO THE HONORABLE CAROL FUKUNAGA AND BRIAN TANIGUCHI, 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

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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.

S.B. No. 2803 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.

UNIVERSITY OF HAWAI'I SYSTEM LEGISLATIVE TESTIMONY



SB 2803 RELATING TO PERSONAL INFORMATION

Testimony Presented Before the
Senate Committee on Economic Development and Taxation and
Senate Committee on Judiciary and Labor

February 5, 2008 at 9:00am

by

David Lassner
Vice President for Information Technology and Chief Information Officer
University of Hawaii System

Testimony Presented Before the
Senate Committee on Economic Development and Taxation and
Senate Committee on Judiciary and Labor

February 5, 2008 at 9:00am

by

David Lassner

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

SB 2803 Relating to Personal Information

Chairs Fukunaga and Taniguchi, Vice Chairs Espero and Hee and Members of the Committees:

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 Hawaii'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.

LATE TESTIMONY

Date of Hearing: February 5, 2008

Committees: Senate Judiciary and Labor & Economic
Development and Taxation

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: S.B. 2803, 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 S.B. 2803 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.

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February 4, 2008

TO: Senator Carol Fukunaga
Chair, Senate Committee on Economic Development and Taxation
Hawaii State Capitol, Room 216

Senator Brian T. Taniguchi
Chair, Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 219

Via Email: testimony@Capitol.hawaii.com

FROM: Joanna Markle
RE: S.B. 2803 – Relating to Personal Information
Hearing Date: Tuesday, February 5, 2008 @ 9:00 a.m., Room 016

Dear Chairs Fukunaga and Taniguchi and Members of the Committee on Economic Development & Taxation and Judiciary & Labor:

I am Joanna Markle testifying on behalf of the Consumer Data Industry Association. Founded in 1906, the Consumer Data Industry Association (CDIA) is the international trade association that represents more than 400 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA opposes S.B. 2803. S.B. 2803 is intended to implement the recommendations of the December 2007 report of the Hawaii Identity Theft Task Force to protect the security of personal information collected and maintained by state and county governments. CDIA applauds the time and efforts of the members of the Hawaii Identity Theft Task Force. As an observer at these meetings, it was clear that this was a very large task to undertake in such a short period of time.

However, with regard to Parts V, VI, and VII, we urge the legislature and the government agencies to carefully consider the unintended negative consequences of limiting access to

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and/or collection of Social Security numbers. Consumer reporting agencies use several key pieces of identifying information to match a public record to a credit file, but the only piece of identifying information that is unique to the individual is the Social Security number. Every other element - name, address, date of birth - changes and/or is not unique. The full Social Security number is critical to identifying a person.

Consumer reporting agencies take great effort to ensure that the information they provide is accurate, current and complete. In fact, the Fair Credit Reporting Act requires a consumer reporting agency to have reasonable procedures "to assure maximum possible accuracy of the information concerning the individual about whom the report relates" (15 USC Section 1681(e)(a)). The full Social Security number is critical to accurately match the public record to the correct credit file. While truncating a Social Security number so that only the last four numbers are available may sound like a compromise, surprisingly very few additional records can be matched to the exacting standards imposed by law on agencies using only truncated numbers. The benefit of truncation is marginal. The harm caused by being unable to verify information is substantial.

Fraudsters rarely use public records to perpetrate identity fraud because there is not enough information even in a record that contains a full Social Security number. In fact, a public record with a full Social Security number can help prevent identity theft because it provides an authentic record against which a fraudulent application could be challenged. While it may seem counter-intuitive, the response to fraud relies on more information, not less. Redaction of SSNs or limiting access to SSNs for consumer reporting agencies will have serious consequences.

CDIA believe there may well be severe consequences to truncating or eliminating the use of social security numbers in public records. Criminal background checks will not be as effective. The consequences of a person with a criminal past getting through such a check could well be very harmful. Persons committing fraud would benefit from this as credit checks could not be as effective. These severe consequences need to be balanced against the questionable benefits of diluting the effect of social security numbers. CDIA knows its position is not a popular one but the effort to prevent ID theft needs to be balanced against these unintended consequences.

Part IV is especially troubling because it directs all government agencies to develop and implement a plan to protect and redact personal information, specifically social security numbers, contained in any existing hardcopy documentation. We would respectfully ask

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for consideration in exempting the information given to consumer reporting agencies governed under the FCRA. To illustrate why CRAs must have the full SSN to ensure that its customers, including preschools, senior care homes, financial institutions, have the information they need to ensure the safety and the interests of the people they serve, we would like to share the following:

In September 2003, a national CDIA member performed a test using 9,906 bankruptcy records. This company ran a test with and without the SSN. With an SSN, name and full or partial address (some court records were missing city, state or zip information) the company was able to accurately match 99.82% of the records. Without the SSN, 25.71% failed an identification/authentication match (6.11% were due to an incomplete address/no SSN and an additional 19.60% failed due to the lack of an SSN).

The company also conducted an analysis using the last four digits of the SSN in identifying the correct consumer. According to the company "searching our database on only the last 4 digits identifies too many possible false-positive candidate consumers to be evaluated. Therefore we had to omit this search option and consequently miss any consumer matches that the 9 digit SSN would provide."

Using the 4 digit SSN in the company's match evaluation was also analyzed. The following is an anonymous example of an actual search:

Record: Chapter 7 bankruptcy for Juan Gonzales, 100 Main St., Orange CA, SSN XXX-XX-4587.

On file data:

Juan B. Gonzales, 100 Main St, Orange, CA, SS XXX-XX-4587

Juan R. Gonzales, 100 Main St, Apt 22, Orange, CA SS XXX-XX-4589

Juan Gonzales, 201 Main St, Orange, CA SS XXX-XX-4587

Juan B. Gonzales, 100 Main St, Orange, CA SS XXX-XX-4887

CDIA is committed to addressing identity theft, which is why we worked very hard in 2006 to pass measures to establish laws on destruction of personal records, security breaches, and file freezing. However, Part VI of S.B. 2803 will not serve the purpose of protecting people from identity theft and for this reason, we urge you to delete this section and allow the Information Privacy and Security Council created by this bill to focus on effective methods of battling identity theft, such as education of consumers and adoption of strict policies and procedures regarding handling of personal information.

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Thank you for the opportunity to testify.



**The Chamber of
Commerce of Hawaii**

Since 1850

Testimony to the Senate Committees on
Judiciary and Labor and Economic Development and Taxation
Tuesday, February 5, 2008 at 9:00 a.m.
Conference Room 016, State Capitol

RE: SENATE BILL NO. 2803 RELATING TO WORKFORCE DEVELOPMENT COUNCIL

Chairs Taniguchi and Fukunaga, Vice Chairs Hee and Espero, and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports Senate Bill No. 2803 relating to Workforce Development Council.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This measure transfers the Workforce Development Council from the Department of Labor and Industrial Relations to the Department of Business, Economic Development, and Tourism to assist in aligning Hawaii's workforce development policy with the State's economic development initiatives.

Hawaii businesses have a crucial interest in strengthening workforce development and endeavor to be a part of the resolution. As the largest business organization, The Chamber supports legislation that recognizes state and local initiatives to improve education and workforce development programs.

In the Chamber's 2007 Survey, the membership identified workforce development as one of the top three issues that the Chamber should focus on as well as ranked the availability and quality of the workforce as two of the top three most important issues facing their business. This measure serves as a positive step in the right direction in addressing some of the workforce development initiatives and policies.

In light of the above, The Chamber of Commerce of Hawaii supports SB 2803. We respectfully request that the committee pass this bill for further discussion and consideration.



Senator Brian Taniguchi, Chair
Senator Clayton Hee, Vice Chair
Committee on Judiciary & Labor

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair
Committee on Economic Development & Taxation

State Capitol, Honolulu, Hawaii 96813

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

RE: SB2803, Relating to Personal Information

Chairs Taniguchi and Fukunaga, Vice Chairs Hee and Espero, 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 SB2803, 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. SB2803 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