



**TESTIMONY OF THE STATE ATTORNEY GENERAL  
TWENTY-FOURTH LEGISLATURE, 2008**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2803, S.D. 1, RELATING TO PERSONAL INFORMATION.

**BEFORE THE:**

HOUSE COMMITTEES ON CONSUMER PROTECTION AND COMMERCE  
AND ON JUDICIARY

**DATE:** Thursday, March 13, 2008 **TIME:** 2:00 PM

**LOCATION:** State Capitol, Room 325  
*Deliver to: State Capitol, Room 315, 5 Copies*

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or James C. Paige, Deputy Attorney General

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Chairs Herkes and Waters, and Members of the Committees:

The Attorney General opposes the placement of the Information Privacy and Security Council ("Council") within the Department of the Attorney General.

This bill implements the recommendations of the Identity Theft Task Force. The task force did not recommend placement of the Council within the Department of the Attorney General. The task force recommended that the Council be administratively attached to a different department. That department, which is special funded, testified that the Council would be more appropriately placed in a department that receives general funds. The Department of the Attorney General is not the appropriate place for the Council. The extensive duties relating to both civil and criminal matters that are required of the Department of the Attorney General under chapter 28 of the Hawaii Revised Statutes are inconsistent with expending limited resources to house and administratively support a separate state entity. While the Department of the Attorney General advises numerous boards and commissions, and would be available to advise the Council, that is entirely different from being required to provide support staff and facilities to an entity that serves an important but different purpose than the department. Accordingly,

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it would be difficult for the Department of the Attorney General to provide administrative support to the Council without impacting the department's priorities as detailed in our Executive Biennium Budget. We therefore ask that the bill be amended to remove the provisions that place the council within the Department of the Attorney General.



**Testimony to the Twenty-Fourth State Legislature, 2008 Session**  
House Committee on Consumer Protection and 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, March 13, 2008, 2:00 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:** Senate Bill No. 2803, S. D. 1, Relating to Personal Information.

**Purpose:** The purpose of Senate Bill No. 2803, S. D. 1 is 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 government.

**Judiciary's Position:**

The Judiciary supports the intent of this bill. Senate Bill No. 2803, S.D.1 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 4, 9, 10, 14 and 15 of the bill:

Section 4 adds a new section, 487N-C, to Chapter 487N requiring reports to be submitted annually to the legislature containing comprehensive information on the existence and character of each personal information system of each government agency. The Judiciary strongly asks for your reconsideration of this requirement. Such an informative compilation of government



Senate Bill No. 2803, S. D. 1, Relating to Personal Information  
House Committee on Consumer Protection and Commerce  
House Committee on Judiciary  
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personal information systems detailing how personal information is gathered, where this information is stored, what the information contains, the categories of individuals on whom personal information is maintained, etc, constitutes a welcome mat for those with less than honorable intentions. It begs for attention detrimental to those whose records are accessed and provides a convenient road map for any and all information on government employees.

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 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



Senate Bill No. 2803, S. D. 1, Relating to Personal Information  
House Committee on Consumer Protection and Commerce  
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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 Senate Bill No. 2803, S. D.1.

Date of Hearing: March 13, 2008

Committees: House Consumer Protection &  
Commerce and Judiciary

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent

Title: S.B. 2803, SD1 (SSCR2679), Relating to personal information

Purpose: To implement 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 improving the security and protection 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.

LINDA LINGLE  
GOVERNOR OF HAWAII



MARIE C. LADERTA  
DIRECTOR

CINDY S. INOUE  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT**  
235 S. BERETANIA STREET  
HONOLULU, HAWAII 96813-2437

March 12, 2008

TESTIMONY TO THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
AND  
HOUSE COMMITTEE ON JUDICIARY  
For Hearing on Thursday, March 13, 2008  
2:00 p.m., Conference Room 325

BY

MARIE C. LADERTA, DIRECTOR

**S.B. No. 2803, S.D. 1**  
**Relating to Personal Information**

TO CHAIRPERSONS HERKES AND WATERS AND MEMBERS OF THE COMMITTEES:

The purpose of S.B. No. 2803, S.D. 1, is 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 the State and county governments.

The Department of Human Resources Development (DHRD) has **concerns** with regard to Section 14.

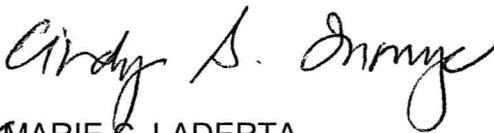
This section requires that the lead human resource agencies for the State and counties develop "written guidelines detailing recommended practices to minimize unauthorized access to personal information and personal information systems relating to personnel recruitment, background checks, testing, employee retirement and health benefits, time reporting and payroll issues". It also requires that the recommended

practices developed by the human resource agencies address "Technological safeguards to ensure the confidentiality and integrity of information transmitted over computer networks, laptop computers, and removable storage devices".

While we recognize the value in developing such recommended practices, the State and County Human Resource agencies' staff do not have the expertise to provide guidance relating to the areas of employee retirement and health benefits, time reporting and payroll issues, nor in information technology safeguards.

Thank you for the opportunity to testify on this measure.

Respectfully Submitted,

  
for MARIE C. LADERTA



CHARMAINE TAVARES  
Mayor



KALBERT K. YOUNG  
Director of Finance

AGNES M. HAYASHI  
Deputy Director of Finance

COUNTY OF MAUI

**DEPARTMENT OF FINANCE**  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

March 13, 2008

Honorable Robert N. Herkes, Chair  
And Members of the Committee on Consumer Protection & Commerce  
Honorable Tommy Waters, Chair  
And Members of the Committee on Judiciary  
State House of Representatives, Room 325  
Honolulu, Hawaii 96813

**RE: SB2803 SD1 - "RELATING TO PERSONAL INFORMATION."**

Dear Chair Herkes, Chair Waters, and Members:

This testimony is offered in consideration of SB 2803 SD1, entitled "RELATING TO PERSONAL INFORMATION."

SB 2803 SD1 seeks to adopt the recommendations proposed by the Hawaii Identity Theft Task Force related to State and County agencies protection of identity information. The County of Maui has appeared before the task force to provide our status and attempts in complying with Chapter 487, Hawaii Revised Statutes. The challenge for each of the Counties has been that there is not any one person, division, or department with the singular authority over managing the immense variety of information that counties require. For example, building permit information, driver's license and vehicle records, applications for government services, employee records, vendor records etc. can all contain varying degrees of personal, address, or identity information. As expressed to the task force, the County of Maui is largely organized where departments are responsible for safeguarding the majority of information under their possession. While the County does have an Information Technology Division (IT), it does not pay for a chief technology officer or a person who would be singularly tasked with the responsibility of carrying out the intent of SB2803 SD1, or Chapter 487, HRS.

The County of Maui supports the intent of safeguarding personal and identity information and is constantly implementing projects that further strengthen our IT systems for that purpose. However, any mandates by the State to create a position at the County level where one does not currently exist should consider the requirements of funding. The State of Hawaii recognizes that such a mandate would require additional positions since SB2803 SD1 includes funding provisions for three persons in the Department of the Attorney General.

H CPC/JUD  
SB2803 SD1  
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I respectfully request that this measure be amended to appropriate funds to the individual counties to carry out the specifics identified in SB2803 SD1 in order to fulfill the requirements that each county should "designate an employee with policy and oversight responsibilities for the protection of personal information."

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Young', written over the printed name.

KALBERT YOUNG  
Director of Finance

Sent by FAX 800-535-3859  
or e-mail: [CPCtestimony@Capitol.hawaii.gov](mailto:CPCtestimony@Capitol.hawaii.gov)

LINDA LINGLE  
GOVERNOR



RUSS K. SAITO  
Comptroller

BARBARA A. ANNIS  
Deputy Comptroller

**STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES  
P.O. BOX 119  
HONOLULU, HAWAII 96810-0119**

TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEES  
ON  
CONSUMER PROTECTION & COMMERCE  
AND  
JUDICIARY  
ON  
March 13, 2008  
S.B. 2803, S.D. 1

RELATING TO PERSONAL INFORMATION

Chair Herkes, Chair Waters, and members of the Committees, thank you for the opportunity to testify on S.B. 2803, S.D. 1.

The Department of Accounting and General Services (DAGS) supports the intent of this bill and has comments for these Committees to consider. This bill's intent is to implement the recommendations of the December 2007 report of the Hawaii Identity Theft Task Force, which were intended to protect the security of personal information collected and maintained by state and county government. A DAGS representative was a member of this task force and participated in the development of the December 2007 report.

This bill addresses broad policy and oversight responsibilities for the protection of personal information. However, it is not implementable in its current form. The bill

should specify the method of selection or the naming of the State and County members of the Information Privacy and Security Council.

To fulfill the bill's intent, the department or agency to which the council is assigned for administrative purposes should be an organization that has the ability to enforce policy directives across all jurisdictions of state and county governments.

It should be made clear that protecting the security of personal information goes beyond information technology and storage media. DAGS has two divisions that may be involved in implementing this bill. One division, the Information and Communication Services Division (ICSD) manages the information processing and telecommunication systems that provide services to various agencies of the State of Hawaii. The other division, the State Archives, is responsible for the official records of the State of Hawaii. Although both divisions can support the efforts of the Information Privacy and Security Council that this bill would establish, they do not enforce policy across all jurisdictions. They do establish standards for IT security and records retention, but these functions are not the main elements of protecting the security of personal information. Day-to-day operating procedures and personnel work habits have the greatest impact on the security of personal information. This argues for placing the responsibility for protecting the security of personal information directly on the departments and agencies themselves.

Thus, one might question the necessity of creating an Information Privacy and Security Council as an ongoing permanent agency. A transitional role may be more appropriate. As an alternative, this bill could be amended to establish a requirement for agencies to be audited on a regular schedule relative to their compliance with procedures for protecting the security of personal information. All State Executive Branch departments have procedures for complying with the identity theft laws passed by this

legislature. Enforcement of procedures and implementation of corrective actions arising out of an audit would be a management responsibility.

Thank you for the opportunity to testify on this matter.

CHARMAINE TAVARES  
Mayor



LYNN G. KRIEG  
Director

LANCE T. HIROMOTO  
Deputy Director

COUNTY OF MAUI  
DEPARTMENT OF PERSONNEL SERVICES

200 SOUTH HIGH STREET • WAILUKU, MAUI, HAWAII 96793-2155  
PHONE (808) 270-7850 • FAX (808) 270-7969

Website: [www.mauicounty.gov/departments/Personnel](http://www.mauicounty.gov/departments/Personnel) • Email: [personnel.services@mauicounty.gov](mailto:personnel.services@mauicounty.gov)

March 12, 2008

The Honorable Robert N. Herkes, Chair  
and Members of the Committee on Consumer Protection and Commerce  
and  
The Honorable Tommy Waters, Chair  
and Members of the Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, HI 96813

Dear Chair Herkes, Chair Waters, and Members of the Committees:

**RE: SB 2803, SD1 Relating to Personal Information**

I am Lynn G. Krieg, Director of Personnel Services for the County of Maui, and while we support the intent of this measure, we also have some grave concerns about the reasonableness and reality of its far reaching goals and timetable.

In its current form I feel that SB 2803, SD1 is too burdensome and unwieldy. It places burdensome requirements on hundreds of government agencies, regardless of size, function and/or location with no provisions for exceptions or designated agency guidance. What I envision is either total chaos or a total apathetic "no response" for lack of knowing what to do and where to turn for assistance. Perhaps the creation of a central agency to implement the identity task force recommendations is a more viable alternative. This agency could function similar to the function of the Office of Information Practices and act as the "go to" agency for legal opinions, procedural clarifications, etc.

I also have serious issues with Section 14 of this measure as it makes giant assumptions regarding the Central Human Resources Agencies in the various government jurisdictions when it assumes that each human resources agency has control over its jurisdiction's employee retirement and health benefit information, its time reporting processes, its payroll issues, and, much less, the jurisdiction's information technology functions. Each jurisdiction may handle each of these areas differently, but the bottom line concern is that the agencies primarily responsible for these areas are in the best position to set standards on their documents and systems.

As previously stated, while I support the intent of this measure, I feel there are some serious issues that must be addressed.

Thank you for the opportunity to submit testimony on this measure.

Sincerely,

A handwritten signature in black ink that reads "Lynn G. Krieg".

LYNN G. KRIEG  
Director of Personnel Services

cc: Mayor Charmaine Tavares

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 527-5583 • INTERNET: www.honolulu.gov/hr

MUFI HANNEMANN  
MAYOR



KENNETH Y. NAKAMATSU  
DIRECTOR

March 13, 2008

The Honorable Robert N. Herkes, Chair  
and Members  
Committee on Consumer Protection and Commerce  
The Honorable Tommy Waters, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii

Dear Chair Herkes, Chair Waters and Members of the Committees:

I am Ken Y. Nakamatsu, Director of Human Resources, City and County of Honolulu. Senate Bill 2803, Senate Draft 1, implements the recommendations of the Identity Theft Taskforce. We support the intent of this measure and are committed to working to protect the personal information of our employees and applicants. However, we offer the following comments on Section 14 of the bill.

Section 14 of the bill requires that the Central Human Resources Agency for each government jurisdiction provide guidance on practices to protect personal information. Although we support the idea of providing such guidance, we note that the bill places under our control areas that are covered by other agencies—specifically employee retirement and health benefits, and time reporting and payroll issues. We believe the agencies primarily responsible for these areas are in the best position to set standards on their documents and systems. In addition, we note that the bill requires that Human Resources establish recommended practices for information technology related areas—such as practices to secure electronic records, personal information systems, and the transmission of information over computer networks. We do not believe that Human Resources is best suited to establish recommended practices in the information technology area.

We reiterate our support of the intent of this measure.

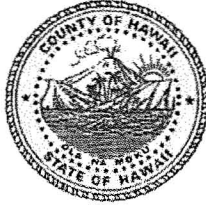
Thank you for the opportunity to testify on S.B. 2803, S.D. 1.

Sincerely,

A handwritten signature in black ink that reads "Ken Nakamatsu".

KEN Y. NAKAMATSU  
Director of Human Resources

Harry Kim  
Mayor



Michael R. Ben, SPHR  
Director of Human Resources

Ronald K. Takahashi  
Deputy Director of Human Resources

## County of Hawai'i Department of Human Resources

Aupuni Center \* 101 Pauahi Street, Suite 2 \* Hilo, Hawai'i 96720 \* (808) 961-8361 \* Fax (808) 961-8617  
TTY (808) 961-8619 \* e-mail: [cohdc@co.hawaii.hi.us](mailto:cohdc@co.hawaii.hi.us) \* Jobs Information: Job Hotline (808) 961-8618 e-mail: [jobs@co.hawaii.hi](mailto:jobs@co.hawaii.hi)

March 13, 2008

The Honorable Robert N. Herkes, Chair  
And Members of the Committee on Consumer Protection and Commerce

The Honorable Tommy Waters, Chair  
And Members of the Committee on Judiciary

House of Representatives  
State Capitol  
Honolulu, HI 96813

Dear Chairman Herkes, Chairman Waters, and Members of the Committees:

### **Re: SB 2803, SD 1 Relating to Personal Information.**

I am Michael R. Ben, Director of Human Resources for the County of Hawai'i. While we support the intent of this bill and will work towards protecting personal information retained by government agencies, I am testifying to ask for your reconsideration of this bill so as to achieve a more effective, methodical, and efficient means of implementing the recommendations of the Identify Theft Taskforce.

### **SB 2803, SD 1 in its present form is unduly burdensome**

As proposed, SB 2803 places unduly burdensome requirements on hundreds of government agencies, every one of which, in all probability, will not know where to begin in their attempt to comply with this bill. They will be doing so with no designated agency that will assist and help them with issues which may arise in the implementation of SB 2803. Chaos will be created among all government agencies as they seek to comply with SB 2803. People will be inventing and reinventing the wheel as they seek to comply with SB 2803.

While the SB 2803 will create an information privacy and security council, the staffing appears wholly inadequate for the task the council will undertake and the timetable afforded it. The council will be burden with requests from the

*Hawai'i County is an Equal Opportunity Provider and Employer.*



The Honorable Robert N. Herkes, Chair  
And Members of the Committee on Consumer Protection and Commerce  
The Honorable Tommy Waters, Chair  
And Members of the Committee on Judiciary  
March 13, 2008  
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hundreds of designated agency employees seeking guidance and assistance from them, notwithstanding the fact that providing such guidance and assistance will not be a function of the council. Likewise, the respective attorney offices of the various jurisdictions will be overwhelmed with requests for assistance and guidance in order to comply with the requirements imposed by the bill.

**Create central agency responsible for implementing the identify theft task force recommendations.**

I do not believe that the proposed council or the respective attorney offices are prepared and have the necessary knowledge to assist the hundreds of government agencies affected by SB 2803.

Please consider establishing an agency whose responsibility will be to implement the identity theft task force recommendations or those recommendations the legislature support. This agency would be responsible for determining how best to achieve the goals and objectives behind the recommendations of task force. It will be central source of information and the authority on the subject matter.

Provide the agency with appropriate levels of staffing, and charge it with providing guidance and assistance to all state and county government agencies in how to protect the security of personal information collected and maintained these state and county agencies.

Thank you.

Sincerely,



Michael R. Ben, SPHR  
Director of Human Resources



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, March 13, 2008  
                    2:00 pm  
                    Conference Room 325

**RE:    SB2803, SD1, 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 supports SB2803, SD1**, 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, SD1 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



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Written Testimony Presented Before the  
House Committee on Consumer Protection & Commerce and  
House Committee on Judiciary  
March 13, 2008 at 2:00 pm

by

David Lassner

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

### SB 2803, SD 1 – RELATING TO PERSONAL INFORMATION

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

The University applauds the Legislature's concern in protecting Hawai'i's citizenry. While we oppose several provisions of the proposed legislation in its current form for the reasons cited below, we appreciate the thoughtful consideration of our concerns as this Bill progresses. We are particularly appreciative that the implementation of SB2803, SD1 has been purposely delayed until such time as the remaining issues can be thoughtfully addressed.

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

- 1) The University strongly opposes the creation of the Annual Report on Systems with Personal Information (proposed as §487N-C). The very creation of such a report creates significant 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 by a new public record that tells criminals exactly where to find personal information and what is in each location.

The University would suggest that the current provisions be replaced with more general language that simply specifies that each agency, in support of their internal programs of protection of personal information shall be responsible to maintain an inventory of all information systems that include personal information. The legislation must ensure that any such inventories remain confidential and fully protected from disclosure notwithstanding any other rules or statutes.

- 2) They University strongly opposes the provisions in Part VII that would require the elimination of all governmental uses of Social Security Numbers other than where required by law. While we no longer use the Social Security Number as a primary identifier in any of our information systems, the fact remains that the Social Security Number was the identifier in the past and is still an important element in establishing identity. The University would have no way of establishing the identities of hundreds of thousands of our past students without the use of the Social Security Number, which was formerly used as the Student ID number.

The Social Security Administration notes that:

*"The Privacy Act regulates the use of Social Security numbers by government agencies. When a federal, state, or local government agency asks an individual to disclose his or her Social Security number, the Privacy Act requires the agency to inform the person of the following: the statutory or other authority for requesting the information; whether disclosure is mandatory or voluntary; what uses will be made of the information; and the consequences, if any, of failure to provide the information."*

The University urges that the legislature not frustrate our ability to serve our customers throughout the state with overly restrictive legislation that goes so far beyond federal requirements and Social Security Administration guidelines.

- 3) The University notes that a number of new compliance mandates are established in the current draft without specific funding. While the bill invites agencies to prepare budget requests for addressing certain requirements, we hope that the final bill will link compliance with the appropriation and release of the funding the Legislature recognizes will be necessary.

Finally, the University notes that while government agencies, including the University, must protect the personal information with which they are entrusted, a singular focus on governmental protection of personal data is a small part of protecting the public against identity theft. National data tells us that:

- More personal data is lost by the private sector than the public sector;
- Most identity theft is not the result of data breaches; and
- Most losses of personal data do not result in identity theft.

True protection against identity theft will only occur with changes in the credit industry, which is where the crime actually occurs. This is of course a much more difficult target for reform.

Nonetheless, the University takes the protection of the personal information with which we are entrusted very seriously, and looks forward to working with the Legislature to craft legislation that will reduce risks for Hawai'i's citizenry.

# 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

March 13, 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: **Senate Bill 2803, Senate Draft 1 (Personal Information)**  
**Hearing Date/Time: Thursday, March 13, 2008, 2:00 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.

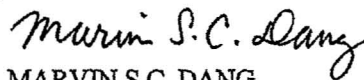
I was appointed by the Senate President to be a member of the Hawaii Identity Theft Task Force as a representative of the financial services industry. I served as Vice Chair of that Task Force. I was also a Senate President appointee of the predecessor Anti-Phishing Task Force.

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 exists in millions of government records. 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. While other government records with personal information are not open to the public, even these records need to be safeguarded. The Report's recommendations address these concerns.

One key recommendation of the Task Force involves the creation of an entity attached to a State executive branch department. The entity would develop guidance and best practices to improve personal information security measures for State and County government agencies. The entity would also review plans of the agencies to reduce the collection and use of social security numbers.

Because safeguarding the personal information of our citizens needs to be given a high priority, we urge your Committees to pass this Bill.

Thank you for considering this testimony.



MARVIN S.C. DANG

Attorney for the Hawaii Financial Services Association

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Members: American General Financial Services of Hawaii, Inc./American International Group • Beneficial Hawaii, Inc./HSBC North America • CitiFinancial, Inc./Citigroup • House of Finance, Inc. • Kauai Island Finance, Inc. • Maui Industrial Loan & Finance Company, Inc. • Safety Loan Company, Ltd. • Wells Fargo Financial Hawaii, Inc./Wells Fargo Financial, Inc.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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March 12, 2008

TO: Representative Robert N. Herkes  
Chair, House Committee on Consumer Protection & Commerce  
Hawaii State Capitol, Room 320  
  
Representative Tommy Waters  
Chair, House Committee on Judiciary  
Hawaii State Capitol, Room 302

Via Email: [CPCtestimony@Capitol.hawaii.com](mailto:CPCtestimony@Capitol.hawaii.com)

FROM: Joanna Markle  
RE: S.B. 2803, SD2 – Relating to Personal Information  
Hearing Date: Thursday, March 13, 2008 @ 2:00 p.m., Room 325

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Dear Chairs Herkes and Waters and Members of the Committees on Consumer Protection & Commerce and Judiciary:

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, SD2. S.B. 2803, SD2 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 (FCRA) 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 believes 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 VI and VII are 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

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respectfully ask 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, and 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 with the legislature in 2006 to pass measures to establish laws on the destruction of personal records, security breaches, and file freezing. However, Part VI and VII of S.B. 2803, SD1 will not serve the purpose of protecting people from identity theft and for this reason, we urge you to delete these sections 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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In February 2008, Javelin Strategy & Research released a report titled "2008 Identity Fraud Survey Report". Javelin's research found that 33% of identity theft fraud was due to lost or stolen wallets and that the majority of thefts occur via physical methods, such as "shoulder surfing" (eavesdropping by a criminal while you conduct a public transaction). Javelin also found an increase in attempts at identity theft over the phone called "vishing" which is when a person pretending to be a representative from your financial institution or credit card company asks for your personal information over the phone. Efforts by the government to educate consumers on how to protect their personal information have proven effective in several states. Given these findings, we urge the legislature to encourage or even mandate that the appropriate state agency take the lead in reaching out to consumers via public service announcements and community outreach programs.

Thank you for the opportunity to testify.

To the House Committees on Consumer Protection and Commerce and Judiciary

Twenty-Fourth Legislature  
Regular Session of 2008

Thursday, March 13, 2008  
2:00 p.m.

### Testimony on Senate Bill 2803 S.D. 1, Relating to Personal Information

Chairs Herkes and Waters and members of the Committees,

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My name is Gary Caulfield and I strongly support this bill. Although I served as past Chairman of the State Identity Theft Task Force, I am testifying as an individual since the Task Force's charter ended officially on December 31, 2007.

The purpose of this bill is to implement the recommendations of the Task Force. I believe the passage of the bill will help secure the personal identifying information of thousands of Hawaii consumers found in more than twelve (12) million State records and will greatly reduce the opportunity for use of this information in identity theft fraud.

Act 240 (2006 session laws) created the Task Force, which was comprised of members of the private sector, law enforcement officials, Legislature, Judiciary, and State Administration. The Task Force was charged with the responsibilities for 1) identifying best practices related to protecting personal identifying information collected by government agencies, 2) reviewing other jurisdictions' activities, policies and laws, 3) establishing a timetable for removal of personal identifying information from public records, 4) reviewing current practices in use and disclosure of Social Security numbers in state and county records and documents, 5) reviewing the volume of these records and documents, 6) reviewing the impact of mandatory redaction, and 7) identifying and recommending solutions for protecting Social Security Numbers.

Over an eighteen month period, the Task Force listened to numerous State and County agency presentations on how they currently secure confidential information, their plans for securing this information in the future to comply with Act 240, reviewed the impacts of mandatory redaction and other solutions, studied best practices from other states and the recommendations of the President's Task Force on Identity Theft.

The Task Force developed eleven recommendations to decrease the unnecessary use of personal information in government agencies, implement safeguards to protect personal information, ensure effective responses to data breaches, and to educate agencies on how to protect data.

While I believe implementation of all the recommendations would improve the current situation, it all starts with the creation of an overall coordinating and policy direction body for this effort. The Task Force found that each of the State and county agencies were

essentially interpreting the provisions of existing laws and developing their own interpretations and timetables. If the Legislature believes protecting the personal identification of thousands of consumers is a job worth doing, it must designate an agency to house this governing body, fund it adequately, and provide it with the requested staff positions. The Task Force believes that this is the only way to get agencies on the same page, moving in the same direction on the same timetable as noted in various sections of the bill, and to identify and implement best practices to help government agencies reduce the unnecessary availability of consumer personal identification.

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Thank you for your consideration and the opportunity to testify on this bill.

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