
A BILL FOR AN ACT

RELATING TO GOVERNMENT RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that meaningful
2 participation in a democracy requires that government processes
3 be open to public scrutiny. The formation and conduct of public
4 policy--the discussions, deliberations, decisions, and action of
5 government agencies--must be conducted as openly as possible.
6 To that end, the legislature adopted the Uniform Information
7 Practices Act, chapter 92F, Hawaii Revised Statutes.

8 In doing so, the legislature directed that the Act be
9 applied and construed to, among other things, provide for
10 accurate, relevant, timely, and complete government records;
11 enhance governmental accountability through a general policy of
12 access to government records; and make government accountable to
13 individuals in the collection, use, and dissemination of
14 information relating to them.

15 The Hawaii Supreme Court acknowledged in *Nuuanu Valley*
16 *Association v. City and County of Honolulu*, 119 Hawai'i 90, 194
17 P.3d 531 (2008), that it was the legislature's intent to rely on
18 commentary to the Uniform Information Practices Code to guide



1 interpretation of similar provisions of the Uniform Information
2 Practices Act. However, the court rejected a definition of
3 "maintain" from the Code that, in its view, would impose an
4 affirmative obligation on government agencies to maintain
5 possession of records that it receives, in addition to those it
6 creates.

7 The court's decision effectively denied public access to
8 records received by the city and county of Honolulu in the
9 subdivision review process that it had considered, returned with
10 comments, and received again but not yet formally accepted.
11 Lack of access to records such as these undermines legitimate
12 efforts to ensure that government is accountable in the process
13 of making decisions that impact public interests.

14 The purpose of this Act is to declare the legislature's
15 intent to impose an affirmative obligation upon government
16 agencies to maintain records by requiring that records received
17 by an agency be maintained and made available for public
18 inspection.

19 SECTION 2. Section 92F-3, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



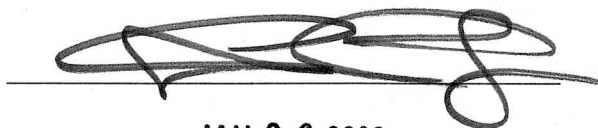
1 "Maintain" means to hold, possess, preserve, retain,
2 store, or administratively control."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 26 2009



Report Title:

Uniform Information Practices Act; Maintaining Government Records

Description:

Adds a definition of "maintain" to clarify government's affirmative obligation to maintain records for public access and disclosure.

