

State Privacy and Security Coalition, Inc.

March 2, 2011

Representative Gilbert Keith-Agaran, Chair
House Judiciary Committee,
Hawaii State Capitol Building
415 South Beretania Street
Honolulu, Hawaii 96813

LATE TESTIMONY

Re: Amendments to HB 663

Dear Representative Keith-Agaran, Chair, and Members of the Committee:

As a coalition of leading technology companies and technology trade associations, we write to clarify why HB 663 should be amended. The State Privacy and Security Coalition fully appreciates the State's interest in passing an automatic contract renewal bill, but the bill should be amended to make certain aspects of the bill more clear and to provide protections that are found in similar laws. To that end, please see the attachment proposed amendments.

We propose that the bill clarify that covered contracts are for "consumers". Businesses and other sophisticated parties that are able to negotiate contracts do not need the protections that this bill aims to provide. The new sub-section 481(e) includes a definition for "consumer": "natural person who, primarily for personal, family, or household purposes, purchases or is solicited to purchase goods or services."

Sub-section 481(b) of the bill specifies the length of contract that is covered by that sub-section of the bill, but sub-section 481(a) does not provide such clarity; our edits to sub-section 481(a) clarify that the covered contracts are for more than 30 days.

The new sub-section 481(c) is a safe harbor provision that would not be unique to Hawaii. A person would not be liable for a violation of the law if the person can demonstrate that it is a routine business practice to have written procedures to comply with the law, enforces those procedures, the failure to comply with the law is a result of error, and, as outlined in the proposed amendments, that when there is an error, a full refund or credit for all amounts billed to or paid by the consumer is provided.

We respectfully urge that HB 663 be amended as described in this letter. Thank you for your consideration.

Sincerely,

Adrian B. Copiz,
Counsel to State Privacy and Security Coalition