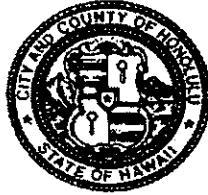


DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



NOEL T. ONO
DIRECTOR

February 14, 2011

The Honorable Robert N. Herkes, Chair
and Members of the Committee
on Consumer Protection & Commerce
The House
State Capitol
Honolulu, Hawaii 96813

Dear Chair Herkes and Members:

Subject: House Bill No. 678, HD1, Relating to Information

The City & County of Honolulu, Department of Human Resources respectfully opposes House Bill No. 678, HD1.

Although well-intended, the City must oppose the measure as it contains provisions which impose additional financial requirements on government at a time when fiscal austerity is required. Specifically, the potential cost of the three-year subscription to a credit monitoring service mandated under Section 1 of House Bill No. 678, HD1, could be overwhelming.

In addition, public agencies are required to comply with the Hawaii Public Procurement Code when contracting for services such as those set forth in House Bill No. 678, HD1. As a result, it will be extremely difficult, if not impossible, for a public agency to provide each affected individual with a choice of not less than two credit reporting agencies within the required seven-day deadline.

We accordingly urge the Committee to file House Bill No. 678, HD1.

Thank you for the opportunity to testify.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono".

Noel T. Ono
Director

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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TO: Representative Marcus Oshiro
 Chair, Committee on Finance
Hawaii State Capitol, Room 306
VIA FACSIMILE: 586-6001

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: February 28, 2011

RE: **H.B. 678, H.D.2 – Relating to Information**
Hearing: Tuesday, March 1, 2011 at 11:00 a.m., Room 308
Agenda # 2

Dear Chair Oshiro and Members of the Committee on Finance:

We respectfully submit this testimony on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 400 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment reporting, tenant screening and collection services.

Overall, CDIA opposes H.B. 678, HD 2.

Free Security Freeze for Security Breach

CDIA strongly opposes Section 2 of H.B. 678 HD 2 at page 4,¹ which amends HRS Section 489P-3 and would require nationwide consumer reporting agencies to give away free security freezes for consumers who receive security breach notices from public and private entities. Consumer reporting agencies already provide credit freeze services for Hawaii consumers and they provide those services for free to identity theft victims. Even before laws required free freezes for ID theft victims, consumer reporting agencies provided free freezes to these consumers.

¹ It appears that this section is incorrectly labeled as Section 2 in the bill and should actually be Section 3.

February 28, 2011

Page 2

Consumer reporting agencies should not be required to give its credit freeze services away for free for non-identity theft victims (i.e., those who merely receive breach notices). Under Hawaii law, consumer reporting agencies cannot charge more than \$5.00 to place a freeze on a credit file for non-victims. This amount is less than the standard fee that these agencies are allowed to recover in many other states.

It is neither fair nor appropriate to force consumer reporting agencies to give away its freeze service for free to non-identity theft victims. Consumer reporting agencies, who are not the cause of security breaches, should not be forced to bear the costs of other business or government data breaches. Accordingly, CDIA would ask that this section be removed from the bill.

Definition of "Security Breach"

CDIA also opposes changing the definition of "security breach" in Section 2 of H.B. 678 HD 2. This section substantially expands the existing definition of security breach from access of personal information that harms or is likely to cause a risk of harm to simply state that any disclosure of information in a way that will create significant additional burdens on businesses. Existing protections and penalties under federal and state law already exist, and expanding the law at this time and imposing significant burdens on the private sector is simply unjustified.

Government payment for credit monitoring reports

Finally, with respect to Section 1 of H.B. 678 HD 1, CDIA generally supports the intent of this provision, which requires government agencies responsible for security breaches to provide a three-year subscription to a nationwide consumer reporting agency's services. In addition, we support the amendments made by the House Committee on Economic Revitalization and Business in H.B. 678, H.D.1, which clarify the definition of nationwide consumer reporting agencies to be consistent with federal law.

Thank you very much for the opportunity to testify.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
ON HB 678, HD 2, RELATING TO INFORMATION

March 1, 2011

Via e mail: fintestimony@capitol.hawaii.gov

Honorable Marcus R. Oshiro, Chair
Committee on Finance
House of Representatives
Hawaii State Capital, Conference Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Oshiro and Committee Members:

Thank you for the opportunity to testify in opposition to the proposed modifications to the definition of "Security breach" set forth in Section 2 of HB 678, HD 2, Relating to Information.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association, that represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. ACLI member companies account for 90% of the assets and premiums of the United States life and annuity industry. Two hundred thirty-nine (239) ACLI member companies currently do business in the State of Hawaii. They represent 93% of the life insurance premiums and 95% of the annuity considerations in this State.

ACLI and its member companies recognize that their customers expect them to maintain the security of their personal information.

ACLI acknowledges that life insurers have an affirmative and continuing obligation to protect the security of their customers' personal information and strongly supports requirements for insurers to protect the security of their customers' personal information.

ACLI also supports legislation that provides standards for notification to individuals whose personal information has been subject to a security breach.

At the same time, ACLI supports legislation that avoids needlessly alarming individuals and undermining the significance of notification of a security breach - legislation that requires notification only when the security and confidentiality of personal information is truly at risk and the information is likely to be misused.

Unfortunately, however, ACLI must respectfully strongly oppose the proposed modifications to the definition of "Security breach" set forth in Section 2 of HB 678, HD 2. This definition applies to incidents involving the records or data of businesses, including insurers, as well as government agencies. The proposed modifications to the definition of "Security breach" are likely to have significant unintended harmful consequences for Hawaii consumers.

Most significantly, Section 2 of the bill would amend the definition of "security breach" to include the following:

- c) Any incident of inadvertent, unauthorized disclosure of unencrypted or unredacted records or data containing personal information

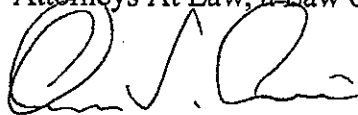
The proposed modifications will cause the definition of "security breach" to include inadvertent, unintentional disclosures of personal information - irrespective of whether affected persons are likely to be at risk of harm. They will effectively eliminate the "harm trigger" in the current definition of "security breach."

As a result of the proposed modifications to the definition of "security breach," businesses will be required to provide affected persons with notice even when their personal information is not likely to be misused or even compromised - needlessly alarming Hawaii residents. Most importantly, the likely significant increase in the number of notices provided Hawaii residents may well undermine the importance of the notices and may cause Hawaii residents not to pay adequate attention to notices of breaches involving real threats to their personal information. In other words, the proposed modifications to the definition of "security breach" may have the unintended consequence of marginalizing the importance of real threats to consumers' personal information.

ACLI respectfully submits that Hawaii residents will be most effectively protected if they are not overwhelmed by unnecessary notices and are provided notice only when there is a risk of harm. Accordingly, ACLI respectfully strongly urges this Committee to amend the bill by deleting the proposed modifications to the definition of "Security breach" set forth in Section 2 of the bill.

Again, thank you for the opportunity to testify in opposition to the proposed modifications to the definition of "Security breach" set forth in Section 2 of HB 698, HB 2, Relating to Information.

CHAR, HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, a Law Corporation



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FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 28, 2011 12:27 PM
To: FINTestimony
Cc: rtsujimura@imanakakudo.com
Subject: Testimony for HB678 on 3/1/2011 11:00:00 AM
Attachments: REI Test. - HB 678, HD 2.pdf

Testimony for FIN 3/1/2011 11:00:00 AM HB678

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Rick Tsujimura
Organization: Reed Elsevier Inc.
Address:
Phone:
E-mail: rtsujimura@imanakakudo.com
Submitted on: 2/28/2011

Comments: