

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
ON SENATE BILL 796, SD 1, RELATING TO INFORMATION

February 24, 2011

Via e mail: wamtestimony@capitol.hawaii.com

Hon. Senator David Y. Ige, Chair
Committee on Ways and Means
State Senate
Hawaii State Capitol, Room 211
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ige 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 Senate Bill 796, SD 1, 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 the bill. The modifications 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

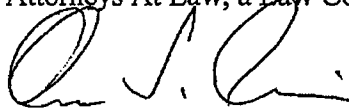
The proposed modifications will cause the definition of "security breach" to include inadvertent, unintentional disclosures of personal information - irrespective of whether affected persons are likely to be at risk of harm. They will effectively eliminate the "harm trigger" in the current definition 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 SB 796, SD 1, Relating to Information.

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



Oren T. Chikamoto
737 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Telephone: (808) 524-3800
Facsimile: (808) 523-1714