
A BILL FOR AN ACT

RELATING TO PRIVACY RIGHTS.

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

1 SECTION 1. The legislature finds that there is a need for
2 consumers and businesses to make informed decisions when hiring
3 persons who are governed under the professional and vocational
4 licensing laws of the State. The legislature also finds that it
5 is important for consumers to have information to help them in
6 hiring honest and trustworthy licensed individuals. One of the
7 tools available to assist consumers in learning whether
8 complaints have been filed against licensees is a website that
9 is maintained by the State's regulated industries complaints
10 office.

11 On the other side of the issue regarding the disclosure of
12 those records for the public good, the legislature acknowledges
13 that licensees have a privacy right and a due process right to
14 contest complaints and to minimize premature disclosure of
15 complaints that are baseless, unfounded, or unjustified.
16 Baseless complaints against a licensee can quickly cause serious
17 damage to an honest licensee's business in situations when a
18 licensee has not had the opportunity to fully contest the



1 allegations contained in the complaint. Thus, complaints might
2 be disclosed before there is any conclusive evidence of
3 wrongdoing by a licensee and before the licensee has had an
4 opportunity to fully contest the complaint.

5 The legislature is cognizant that if the regulated
6 industries complaints office is forced to wait until conclusive
7 evidence of wrongdoing is available before disclosing the
8 licensees' complaint records, many years may pass and many
9 consumers may be unjustly harmed by unscrupulous licensees in
10 the interim. Because it is not uncommon for corrupt and
11 dishonest licensees to cause harm quickly to many members of the
12 public, unnecessary harm might be done to the public if the
13 complaints are not timely disclosed.

14 Thus, the legislature is presented with the dilemma as to
15 when complaints against licensees should be disclosed to the
16 public to serve the public good, and when the privacy rights of
17 licensees should be protected.

18 The purpose of this Act is to create a complaints
19 disclosure task force to study the optimal timing and conditions
20 for disclosure of complaints against licensees and to use a
21 balanced approach regarding the timing of the disclosure of



1 complaints against persons licensed under title 25, Hawaii
2 Revised Statutes.

3 SECTION 2. (a) The director of commerce and consumer
4 affairs shall establish, in coordination with the senate
5 president and the speaker of the house of representatives, the
6 complaints disclosure task force within the department of
7 commerce and consumer affairs for administrative purposes. The
8 task force shall research, assess, plan, and evaluate the
9 following:

10 (1) The feasibility, benefits, and drawbacks of disclosing
11 a complaint against a licensee as currently practiced
12 by the regulated industries complaints office; waiting
13 to disclose those complaints until after the licensee
14 has fully contested the complaint, whether by means of
15 a decision by a licensing board, a circuit court, or
16 an appellate court; or disclosing the complaint
17 sometime between the current practice and an appellate
18 court's decision on the complaint;

19 (2) The most effective means of protecting the public's
20 right to know about dishonest, deceitful, and careless
21 licensees and permitting disclosure of a complaint
22 versus a licensee's privacy rights and the entitlement



1 to fully contest a complaint and to be free from the
2 disclosure of unwarranted complaints;

3 (3) How other states manage complaints and address the
4 timing for the disclosure of complaints against
5 licensees to the public, including when and under what
6 conditions information is expunged from an official
7 website listing consumer complaints; and

8 (4) Whether legislation, and what legislation, if any, is
9 needed to address issues of timing and the conditions
10 for the disclosure of complaints against licensees and
11 the privacy rights of licensees.

12 (b) The complaints disclosure task force shall be convened
13 and chaired by the complaints and enforcement officer or the
14 complaints and enforcement officer's designee of the regulated
15 industries complaints office. The task force shall comprise
16 nine members, as follows:

17 (1) The complaints and enforcement officer or the
18 complaints and enforcement officer's designee of the
19 regulated industries complaints office;

20 (2) One member who is a dentist licensed in the State, who
21 shall be appointed by the senate president;



1 (3) One member who is a real estate broker or salesperson
2 licensed in the State, who shall be appointed by the
3 speaker of the house;

4 (4) Three members who shall be appointed by the senate
5 president, provided that all members shall be licensed
6 under title 25, Hawaii Revised Statutes; and

7 (5) Three members who shall be appointed by the speaker of
8 the house, provided that all members shall be licensed
9 under title 25, Hawaii Revised Statutes;

10 provided that none of the task force members shall be from the
11 same profession or occupation.

12 The task force members shall serve without compensation.

13 No task force member shall be made subject to chapter 84, Hawaii
14 Revised Statutes, solely because of that member's participation
15 as a member of the task force.

16 (c) The task force shall be dissolved on June 30, 2013.

17 SECTION 3. The complaints disclosure task force shall
18 submit a report of its findings and recommendations, including
19 any proposed legislation, to the legislature no later than
20 twenty days before the convening of the regular session of 2014.

21 SECTION 4. This Act shall take effect on January 7, 2059.



Report Title:

Professional and Vocational Licenses; Complaints; Privacy
Interests

Description:

Establishes the Complaints Disclosure Task Force within the Department of Commerce and Consumer Affairs to research, assess, plan, and evaluate the appropriate timing for the public disclosure of complaints against individuals holding professional or vocational licenses. Dissolves the task force on June 30, 2013. Requires a report of findings and recommendations, including any proposed legislation, to the Legislature prior to the 2014 Regular Session. Effective January 7, 2013. (HB2298 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

