

LATE

TO: Members of the Committees on Economic Development & Technology and
Commerce & Consumer Affairs

FROM: Natalie Iwasa, CPA
Honolulu, HI 96825
808-395-3233

HEARING: 1:15 p.m. Wednesday, February 8, 2012

SUBJECT: SB 2389 Relating to Information Protection - **OPPOSED**

Aloha Chairs and Senators,

Thank you for allowing me to provide testimony on SB 2389, which would require all businesses that maintain personal information to implement a comprehensive, written policy and procedure to prevent identity theft.

While I understand the concerns about ID theft, I oppose this measure as it creates additional burdens on small businesses. It is particularly onerous on single-operator businesses that should be spending their time on productive business matters, not writing documents that will sit on the shelf gathering dust.

Please vote "no."

LATE



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Testimony to the Senate Committee on Economic Development & Technology and
Committee on Commerce and Consumer Protection
February 8, 2012 at 1:15 p.m.

Testimony in opposition to SB 2389, Relating to Information Protection

To: The Honorable Carol Fukunaga, Chair
The Honorable Glenn Wakai, Vice-Chair
The Honorable Rosalyn Baker, Chair
The Honorable Brian Taniguchi, Vice-Chair
Members of the Committees

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 81 Hawaii credit unions, representing approximately 811,000 credit union members across the state.

We are in opposition to SB 2389, Relating to Information Protection. While we fully understand the reasons behind legislation such as this, and agree that protection of personal information with respect to identity theft prevention is of great importance, we believe this bill is unnecessary for financial institutions. There are already federal laws and regulations in place for financial institutions regarding identity theft and information protection, of which Hawaii credit unions are in full compliance.

Accordingly, we agree with the exemption for financial institutions proposed by the Hawaii Bankers Association.

Thank you for the opportunity to testify.

**Testimony Before The Senate Committees On
Economic Development and Technology and
Commerce and Consumer Protection**

February 8, 2012
Room 016

S.B. 2389 Relating to Information Protection

Chairs Fukunaga and Baker, Vice-Chairs Wakai and Taniguchi,
and Members of the Committees:

My name is Grant “Lanai” Tabura, I am here on behalf of ID Theft Solutions of America, testifying in **Support** of SB 2389, which requires Hawaii businesses to implement a comprehensive identity (ID) theft program by January 1, 2014.

We believe that this bill enhances the protections specified in HRS Chapter 487J, 487N and 487R. The bill provides requirements that business implement a comprehensive, written policy and procedures to prevent identity theft. There policy shall include safeguards such as administrative, technical and physical safeguards designed to ensure the security or integrity of personal, medical, educational and financial information for all employees. And lastly, this bill requires that each business must train each employee in the implementation of this policy and procedure to prevent identity theft.

Let me provide you with a few facts the truly reflects on the importance of this piece of legislation, over 500 million American identities have been reported lost, stolen or exposed since January 2005 – www.PrivacyRights.org., over 400,000 DECEASED individuals opened bank accounts last year – AARP statistic., Every 3 seconds someone becomes a victim of identity theft – USA TODAY, and Revenue from identity theft has surpassed revenues from drug trafficking – Secret Service March 2007. Brining it closer to home...Several dozen member s of the Hawaii host committee for the APEC Summit have received letters informing them of a possible security breach involving their personal information...249,000 victims of ID theft from the University of Hawaii due to a negligent employee...and 2,000 victims of a hacker at Punahou School.

These facts become increasingly more important when we find that “Over half of all ID theft breaches happen with the work environment and that ID theft is not just financial. Financial ID theft makes up only 23% of all theft cases. Thieves are now targeting information like your SSN, Birth date, etc., information that can then be used to extract more information from a company.

These are all scary facts and reasons why we believe that this is the first step towards the protection needed for everyone in Hawaii. Thank you for allowing me to testify and express my **SUPPORT** for SB 2389.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SENATE BILL 2389, RELATING TO INFORMATION PROTECTION

February 8, 2012

Via e mail

Hon. Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
Hon. Senator Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
State Senate
Hawaii State Capitol, Room 016
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Fukunaga, Chair Baker and Committee Members:

Thank you for the opportunity to comment on of SB 2389, relating to Information Protection.

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred thirty-five (235) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 92% of the annuity considerations in this State. Four fraternal benefit society member companies operate in the State of Hawaii.

ACLI and its member companies recognize that their customers expect them to maintain the security of their personal information. We acknowledge that life insurers have an affirmative and continuing obligation to protect the security of their customers’ personal information and strongly support requirements for insurers to protect the security of their customers’ personal information.

Accordingly, ACLI supports requirements for businesses to have information security programs, which include administrative, technical and physical safeguards, appropriate to the size and complexity of the business and the nature and scope of its activities. Unfortunately, however, ACLI has a number of concerns with the provisions of SB 2389 as currently written.

Section 1 of the bill proposes to add a new section to Chapter 487J to require all businesses to implement a comprehensive written policy and procedure to prevent the identity theft (page 1, lines 7 and 8). First, it is unclear why only businesses are subject to this requirement, and why Hawaii government agencies are not also required to have such policies and procedures.

Moreover, the required policy and procedure must be “*to prevent identity theft*” (page 1, lines 7 and 8) and designed to “*prevent the occurrence of any security breach*” (page 1, line 18). While ACLI member companies support requirements for businesses to have appropriate security programs and policies, they are concerned that the language noted above may be construed to give rise to an unrealistic and unachievable standard - that could render every Hawaii business vulnerable to fines, penalties and litigation for any incident deemed (with the benefit of hindsight) to have been ineffective to prevent identity theft or a security breach.

Our concerns with section 1 are exacerbated by the fact that it is not clear that the required policy and procedure must only be designed to protect the personal information of Hawaii residents. This gives rise to concern that section 1 may be construed to apply to personal information of individuals other than Hawaii residents, to which we would object.

Further, bill section 1 of the bill also requires a business to train *ALL of its employees* in implementing its identity theft and prevention program. It is difficult to understand why employees who do not handle and are not exposed or have access to personal information must have this training. Moreover, the requirements that each employee formally acknowledge in writing his or her receipt of the training and that the business include the acknowledgement in the employee’s file are unnecessary to assure a business’s employees’ knowledge of its identity theft prevention program and unnecessarily prescriptive.

To be clear, ACLI member companies do not object to requirements that a business be responsible for training its employees that have access to its customers’ personal information and to have a record of such training. However, in view of the fact that many ACLI member companies are likely to have thousands of employees, it is the requirements that each employee sign an acknowledgment of training and that the business file the acknowledgment in each employee’s file that are objectionable. We respectfully submit that these requirements would impose an unnecessary administrative burden and cost on businesses, without commensurate enhanced consumer protection.

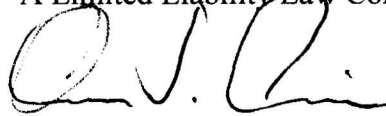
In addition to the above, section 4 of the bill would amend §487J-5 to require a designated individual to be responsible to “*ensure*” compliance with the requirements of Chapter 487J (relating to personal information), 487N (dealing with security breach) and 487R (relating to destruction of personal information records). Again, we are concerned that the language noted above may be construed to give rise to an unrealistic and unachievable standard – particularly for a single individual. In fact, we are generally concerned that all the obligations imposed under subsection (b) of §487J-5 may be construed to be imposed on a single designated employee.

We also are concerned by the ambiguities likely to arise as a result of the requirement in subsection (b)(1) of §487J-5 to “*ensure and coordinate*” compliance with Chapter 487J (relating to personal information), 487N (relating to security breach) and 487R (relating to the destruction of personal information records) and how this reference might impact the application of the penalty provisions of these three chapters.

ACLI is willing to work with the legislative sponsor of the bill and all other interested parties in resolving our concerns with the bill's provisions, as described above.

Again, thank you for the opportunity to comment on SB 2389.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

A handwritten signature in black ink, appearing to read "O.T. Chikamoto", written over the printed name below.

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**Testimony of Joyce Masamitsu
Associate Director of Public Policy for Verizon
Before the
Consumer Protection and Commerce Committee &
Committee on Economic Development and Technology
On S.B. 2389
February 8, 2012**

The Honorable Roslyn Baker
Chair
Committee on Consumer Protection & Commerce
Hawaii Senate

The Honorable Carol Fukunaga
Chair
Economic Development & Technology Committee
Hawaii Senate

Re: *S.B. 2389 – Identity Theft*

Chairwomen Baker and Fukunaga:

On behalf of Verizon, I appreciate the opportunity to testify in opposition to S.B. 2389, legislation addressing identity theft prevention.

First of all, I want to make clear to the Committee that Verizon takes very seriously the obligation to protect the identity of its customers and ensure their privacy protection. We believe that this is something that any responsible business does in order to ensure the long-term reliability and viability of a secure and positive relationship with its customers. No business can survive if it doesn't have mechanisms and procedures in place to protect the privacy of customers.

Therefore, we have policies in place that are designed to keep personal information secure and confidential. These policies aren't named "identity theft" policies -- our interests are broader than that -- but as a byproduct of the protective measures we have in place, identity theft is one of the things our protective measures could help avoid.

That said, one issue with this legislation is that it requires businesses to train every employee. That is too broad a requirement. All our employees receive general privacy practice-related training, but not all receive the specialized security-based training that those with access to highly secure information receive. The requirement would make sense if it were limited to employees who have access to the relevant data.

As drafted, S.B. 2389 is too over-reaching and burdensome. It assumes that there is a huge vacuum that needs to be filled with onerous mandates, and doesn't allow businesses the flexibility to demonstrate what they already do. Our business has spent millions of dollars on computer security and protection against identity theft. Legislation that requires a written policy and procedure to prevent identity theft makes no sense if companies already have such policies in place. Policies that cost a great deal of capital resources to develop and implement.

Worst still, S.B. 2389 seeks to dictate what the policy should include, again without giving companies credit for already having good policies in place. Similarly, as mentioned before, the training mandate is overly broad and overly burdensome. Especially during this recession, it sends the wrong signal to businesses to legislate that they do something in a specific manner like this at great cost, when they already have adequate policies in place to address reasonable concerns with regard to protection against identity theft.

S.B. 2389 goes too far and is burdensome and unnecessary. **We urge the Committee to vote "NO."**