

# OFFICE OF INFORMATION PRACTICES

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To: House Committee on Consumer Protection & Commerce

From: Cheryl Kakazu Park, Director

Date: January 30, 2013, 2 p.m.  
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 143  
Relating to Freedom of Information

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The Office of Information Practices (OIP) takes no position on the primary purpose of the bill, but recommends that the bill be amended in order to prevent the conflict of laws as well as confusion about the bill's provisions.

First, this bill amends the Uniform Information Practices Act (Modified), chapter 92F, HRS (UIPA), by providing that "notwithstanding any law to the contrary" the disclosure of a record shall not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interest. The proposed insertion of the phrase "notwithstanding any law to the contrary" is confusing and its purpose is unclear. Possibly, the bill intends to provide that the UIPA's "clearly unwarranted invasion of personal privacy" prevails over all other statutes.

However, this proposed phrase would create a conflict between the UIPA, which allows an agency to withhold a record from public disclosure under any of its exceptions, including its "clearly unwarranted invasion of personal privacy" exception, and all other statutes mandating specific records to be confidential in order to protect an individual's privacy. The proposed phrase even creates an

inconsistency in the UIPA itself since another UIPA exception already recognizes other “state or federal law” that protects records from disclosure. See HRS § 92F-13(4). Therefore, **OIP recommends that this bill be amended by removing the proposed phrase “notwithstanding any law to the contrary.”**

Second, the primary purpose of this bill is to amend the UIPA to clarify that an individual does not have a significant privacy interest in records showing the individual has met licensing requirements for work experience, passage of trade examinations, and adequate bonding. Because the individual does not have a significant privacy interest such licensing information, it would be public information. See HRS § 92F-14(a) (2012) (UIPA’s “clearly unwarranted invasion of personal privacy” exception does not apply if the individual’s privacy interest is outweighed by the public interest).

Notably, the UIPA already lists other licensing information in which an individual does not have a privacy interest, but the listed information expressly pertains to licensees only, i.e., individuals who currently hold valid licenses. **Similarly, OIP recommends that this bill be amended to specify that the licensing information proposed to be excluded from the individual’s significant privacy interest should be limited to “licensees” only.**

Otherwise, licensing agencies would be required to disclose this licensing information about “individuals,” even if the individuals were denied licensure, are no longer licensed, or whose licensing applications are still pending. Thus, OIP recommends that the bill **be amended on page 4, lines 6-11 as follows:**

- (D) The record showing that the licensee has met or exceeded the requisite experience for licensure;
- (E) The record showing that the licensee has passed relevant trade examinations; and

(F) The record showing the licensee's possession of adequate bonding.

Thank you for the opportunity to submit testimony on this bill.

# IRON WORKERS STABILIZATION FUND

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Fax No. – 586-8437

January 28, 2013

Angus L.K. McKelvey, Chair  
Consumer Protection & Commerce  
House of Representatives  
State Capitol  
Honolulu, HI 96813

Re: **H.B. No. 143, Relating to Freedom of Information**

Chair McKelvey and Members:

Under the present statutory scheme as found in HRS, Chapter 92, as Relating to Freedom of Information, individuals applying for licenses have certain privacy rights that are protected from disclosure. These rights are protected when they outweigh the public's right to know.

As HRS 92F-14 presently stands, the individual applying for a contractor's license or any other license, is protected from having the following information about him or her disclosed:

- 1.The record showing that the requisite experience for licensure is met or exceeded;
- 2.The record showing that relevant trade examinations have been passed; and
- 3.The record showing possession of adequate bonding.

We believe the public's right to know clearly outweighs any privacy rights the applicant may have as pertaining to these 3 examples as set forth above.

Based on the above, we fully support the passage of this measure and seek the amendment of HRS, Section 92-14 (b) (7), by adding (D), (E) and (F) as set forth on page 4 of this bill. By passing this bill, all applicants for contractors' licenses would be required to disclose 1., 2., and 3. above.



House Consumer Protection & Commerce (CPC) Committee  
Chair Angus McKelvey, Vice Chair Derek Kawakami

Wednesday 1/30/13 at 02:00 PM in Room 325  
HB143 – Relating to Freedom of Information

TESTIMONY IN SUPPORT  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair McKelvey, Vice Chair Kawakami, and members of the CPC Committee:

**Common Cause Hawaii supports HB143**, which makes clear that licensed professionals' credentials and qualifications have no privacy interest, and is thus subject to disclosure.

We believe that this type of information is important to remain accessible to the public.

Thank you for this opportunity to testify.