

Testimony of  
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on behalf of  
Consumer Data Industry Association

**LATE**

DATE: January 29, 2013

TO: Representative Angus McKelvey  
Chair, Committee on Consumer Protection & Commerce  
*Submitted Via Capitol Website*

RE: **H.B 712 – Relating to Credit Protection**  
**Hearing Date: Wednesday, January 30, 2013 at 2:00 pm**  
**Conference Room: 325**

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Dear Chair McKelvey and Members of the Committee on Consumer Protection & Commerce,

We offer this testimony on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 200 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.

**CDIA supports the intent** of H.B. 712, but would suggest amendments.

Consumer reporting agencies work hard to prevent ID theft of all people, especially minors. Since credit bureaus do not knowingly create credit files for minors, hardly any minors will have existing credit files. If this bill were to pass as drafted, credit files would have to be created for minors, simply for the purpose of freezing them. CDIA members oppose this, because it could lead to more fraud issues.

Maryland is the first and only state thus far to pass a law to specifically protect minors from credit fraud. If the Committee is inclined to pass this bill, Maryland pioneered a path that we would encourage Hawaii to follow. Maryland's law creates a new term of art called a "record" and then requires the credit bureaus, on request of a parent or

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guardian, to freeze the record to prevent the creation of credit files for minors (and people who are mentally diminished).

CDIA worked on the Maryland law, which was supported by other stakeholders involved, and believes that this law could work in Hawaii as well to protect minors and at the same time avoid the potential for more fraud by the creation of new credit files.

We have attached a draft of this concept for the Committee's consideration.

Thank you very much for the opportunity to testify.

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# A BILL FOR AN ACT

RELATING TO CREDIT PROTECTION

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

1           SECTION 1. Chapter 489P-2, Hawaii Revised Statutes is  
2 amended to read as follows:

3           1. By adding new definitions to be appropriately inserted  
4 and to read:

5           "Protected consumer" means an individual who is:

6                   (1) Under the age of 16 years at the time a request  
7 for the placement of a security freeze is made; or

8                   (2) An incapacitated person or a protected person for  
9 whom a guardian or conservator has been appointed in accordance  
10 with Chapter 560, Hawaii Revised Statutes.

11           "Record" means a compilation of information that:

12                   (1) Identifies a protected consumer;

13                   (2) Is created by a consumer credit reporting agency  
14 solely for the purpose of complying with this section; and

15                   (3) May not be created or used to consider the  
16 protected consumer's credit worthiness, credit standing, credit  
17 capacity, character, general reputation, personal

1 derived from the protected consumer's credit  
2 report except as provided in this section.

3 "Sufficient proof of authority" means documentation that  
4 shows a representative has authority to act on behalf of a  
5 protected consumer, which includes:

6 (1) An order issued by a court of law;

7 (2) A lawfully executed and valid power of attorney;

8 and

9 (3) A written, notarized statement signed by a  
10 representative that expressly describes the authority of the  
11 representative to act on behalf of a protected consumer.

12 "Sufficient proof of identification" means information or  
13 documentation that identifies a protected consumer or a  
14 representative of a protected consumer, which includes:

15 (1) A Social Security number or a copy of a Social  
16 Security card issued by the Social Security Administration;

17 (2) A certified or official copy of a birth  
18 certificate issued by the entity authorized to issue the birth  
19 certificate;

20 (3) A copy of a driver's license, an identification  
21 card issued by the Department of Motor Vehicles, or any other  
22 government-issued identification; or

1                    (D) Pays to the consumer credit reporting agency  
2                    a fee as provided in this section.

3                    (b) If a consumer credit reporting agency does not have a  
4 file pertaining to a protected consumer when the consumer credit  
5 reporting agency receives a request under this section, the  
6 consumer credit reporting agency shall create a record for the  
7 protected consumer.

8                    (c) Within 30 days after receiving a request that meets the  
9 requirements of this section, a consumer credit reporting agency  
10 shall place a security freeze for the protected consumer.

11                    (d) Unless a security freeze for a protected consumer is  
12 removed in accordance with this section, a consumer credit  
13 reporting agency may not release the protected consumer's credit  
14 report, any information derived from the protected consumer's  
15 credit report, or any record created for the protected consumer.

16                    (e) A security freeze for a protected consumer placed  
17 under subsection (a) of this section shall remain in effect  
18 until:

19                    (1) The protected consumer or the protected consumer's  
20 representative requests the consumer credit reporting agency to  
21 remove the security freeze in accordance with subsection (g) of  
22 this section; or

23                    (2) The security freeze is removed in accordance with  
24 subsection (f) of this section.

1           (3) Pay to the consumer credit reporting agency a fee  
2 as provided in subsection (h) of this section.

3           (g) Within 30 days after receiving a request that meets the  
4 requirements of subsection (f) of this section, the consumer  
5 credit reporting agency shall remove the security freeze for the  
6 protected consumer.

7           (h) Except as provided in paragraph (1) of this subsection,  
8 a consumer credit reporting agency may not charge a fee for any  
9 service performed under this section.

10           (1) A consumer credit reporting agency may charge a  
11 reasonable fee, not exceeding \$5, for each placement or removal  
12 of a security freeze for a protected consumer.

13           (2) Notwithstanding paragraph (1) of this subsection,  
14 a consumer credit reporting agency may not charge any fee under  
15 this section if:

16           (A) The protected consumer's representative:

17                   (i) Has obtained a report of alleged  
18                   identity theft against the protected  
19                   consumer under §§708-839.6-708-839.8; and

20                   (ii) Provides a copy of the report to the  
21                   consumer credit reporting agency; or

22           (B) A request for the placement or removal of a  
23 security freeze is for a protected consumer who

1           (4) A consumer reporting agency database or file that  
2 consists entirely of consumer information concerning, and used  
3 solely for:

4                   (A) Criminal record information;

5                   (B) Personal loss history information;

6                   (C) Fraud prevention or detection;

7                   (D) Employment screening; or

8                   (E) Tenant screening.

9           SECTION 3. New statutory material is underscored.

10           SECTION 4. This Act shall take effect upon approval.