

HB 713 HD 2

Testimony

Measure Title: RELATING TO SOCIAL MEDIA.

Report Title: Personal Account; Privacy; Employment; Social Networking Website

Description: Prohibits employers from requiring, requesting, suggesting, or causing employees and potential employees to grant access to personal account usernames or passwords for a social networking website. Effective January 1, 2100. (HB713 HD2)

Companion:

Package: None

Current Referral: TEC/CPN, JDL

Introducer(s): ING

From: mailinglist@capitol.hawaii.gov
To: [TECTestimony](#)
Cc: william.g.kunstman@hawaii.gov
Subject: Submitted testimony for HB713 on Mar 20, 2013 10:00AM
Date: Monday, March 18, 2013 5:54:19 PM
Attachments: [HB713HD2_LBR_TEC-CPN.docx](#)

HB713

Submitted on: 3/18/2013

Testimony for TEC/CPN on Mar 20, 2013 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Audrey Hidano	DLIR	Support	Yes

Comments: Support HCRC requested amendment.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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HONOLULU, HAWAII 96813
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Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 20, 2013

To: The Honorable Glenn Wakai, Chair,
The Honorable Clarence K Nishihara, Vice Chair, and
Members of the Senate Committee on Technology and the Arts

The Honorable Rosalyn H. Baker, Chair
The Honorable Brickwood Galuteria, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

Date: Wednesday, March 20, 2013
Time: 10:00 a.m.
Place: Conference Room 229, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 713, H.D. 2 Relating to Social Media

I. OVERVIEW OF PROPOSED LEGISLATION

This measure prohibits employers from requiring employees or applicants to disclose usernames and passwords, access or divulge personal accounts except those reasonably believed to be relevant to investigations of employee misconduct or violation of applicable law.

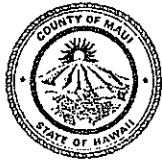
The DLIR is supportive of legislation that protects employee's privacy and supports the Hawaii Civil Rights Commission's recommendation.

II. CURRENT LAW

There is no provision in the labor law that protects personal accounts from employer access.

III. COMMENTS ON THE HOUSE BILL

The Department supports the testimony of the Hawaii Civil Rights Commission in suggesting this concept be a new part in Chapter 378, HRS that provides for a private right of action.



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

March 15, 2013

The Honorable Glenn Wakai, Chair
And Members of the Committee on Technology and the Arts
The Senate
Hawaii State Capitol
Honolulu, HI 96813

The Honorable Rosalyn H. Baker, Chair
And Members of the Committee on Commerce and Consumer Protection
The Senate
Hawaii State Capitol
Honolulu, HI 96813

RE: House Bill No. 713 HD2, RELATING TO SOCIAL MEDIA

Dear Chairs Wakai and Baker, and Members of the Committees:

The Maui Police Department OPPOSES the passage of H.B. No. 713, HD2. This bill prohibits employers from requiring, requesting, suggesting, or causing employees and potential employees to grant access to personal account usernames or passwords for a social networking website.

The passage of this bill will impede the ability for law enforcement agencies to conduct thorough and extensive background checks on prospective police officer applicants. These applicants, if selected, will ultimately be responsible to serve and protect their community and be entrusted to have the integrity, ability and dedication to accomplish this. Law enforcement agencies utilize social media sites to assist in the screening of applicants to develop a more thorough background check with emphasis on personal traits. These traits may have a positive or negative effect on the individual applicant's vested interest into the goals of the department and service to the community.

The Maui Police Department is not asking to be granted all aspects of individual personal media accounts, such as personal passwords, but to amend this bill to allow law enforcement agencies the authority to ask applicants questions regarding their association to individual social media sites and their use of usernames or other related names on these accounts. The information obtained with this amendment is already information

The Honorable Glenn Wakai, Chair
Committee on Technology and the Arts

The Honorable Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
March 15, 2013
Page 2

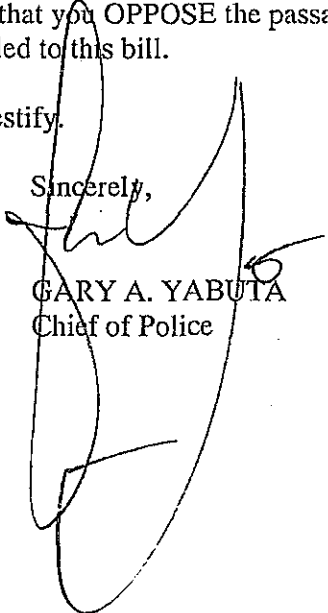
that is publicly available and not privately secured. Allowing law enforcement agencies to obtain this information from the individual applicant would speed up the application process and increase efficiency and accuracy in selecting qualified candidates.

Due to the position, power and responsibility that a law enforcement officer is entrusted with, it would be less than prudent to pass a bill which would cause background checks for police applicants to become less thorough.

The Maui Police Department asks that you OPPOSE the passage of H.B. No. 713, HD2, unless these amendments can be added to this bill.

Thank you for the opportunity to testify.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read 'Gary A. Yabuta'. The signature is written over the typed name and title.

GARY A. YABUTA
Chief of Police

From: mailinglist@capitol.hawaii.gov
To: [TECTestimony](#)
Cc: William.D.Hoshijo@hawaii.gov
Subject: Submitted testimony for HB713 on Mar 20, 2013 10:00AM
Date: Monday, March 18, 2013 1:49:57 PM
Attachments: [HB 713 HD2 HCRC test. Senate TEC-CPN 3-20-13.pdf](#)

HB713

Submitted on: 3/18/2013

Testimony for TEC/CPN on Mar 20, 2013 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
William Hoshijo	Hawai'i Civil Rights Commission	Support	Yes

Comments: The HCRC supports the intent of H.B. No. 713, H.D.2, and will not oppose it if the bill is amended to remove this new prohibited employment practice from Chapter 378, Part I, and HCRC jurisdiction. If there is any problem with this testimony, please contact me.

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HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 20, 2013
Rm. 229, 10:00 a.m.

To: The Honorable Glenn Wakai Chair
Members of the Senate Committee on Technology and the Arts

The Honorable Rosalyn Baker, Chair
Members of the Senate Committee on Commerce and Consumer Protection

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 713, H.D.2

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports the intent of H.B. No. 713, H.D.2, but opposes the placement of this employment practice provision in HRS Chapter 378, Part I, under HCRC jurisdiction. H.B. No. 713, H.D.2, would prohibit employers from requiring applicants and employees from disclosing the usernames or passwords to their personal social media accounts. The HCRC has jurisdiction over only Part I of Chapter 378, which is our state fair employment law prohibiting discrimination in employment on the bases of race, sex, including gender identity or expression, sexual orientation, age, religion color, ancestry, disability, marital status, arrest and court record, domestic violence or sexual violence victim status, retaliation, National Guard participation, assignment of income for child support, breastfeeding, or credit history or credit report. The HCRC does not have jurisdiction over the other parts of Chapter 378: Part II (Lie Detector Tests); Part III (Unlawful Suspension or Discharge); Part IV (Fair Representation); Part V (Whistleblower

Protection Act); or Part VI (Victims Protection).

H.B. No. 713, H.D.2, protects a right and expectation of privacy for applicants and employees with regard to their personal social media accounts. This protection is different in kind from the anti-discrimination focus of the civil rights laws that the HCRC enforces. It is more akin to the protections found in other parts of Chapter 378 that the HCRC does not enforce. Of course, under current law if an employer uses access to social media, whether authorized by an applicant/employee or not, to screen out or discriminate on the basis of race, sex, sexual orientation, age, religion, ancestry, or any other protected basis, that would be a prohibited practice under Chapter 378, Part I. The proposed new protection applies to any requirement or request for a user name or password for an applicant or employee, even if used in a non-discriminatory manner. It does not belong in Chapter 378, Part I, under HCRC jurisdiction.

If the Committees decide to move and recommend passage of H.B. No. 713, H.D.2, the HCRC respectfully requests that it be in the form of an amended S.D.1, removing the new employment practices prohibition from HRS Chapter 378, Part I, to a new part of the same chapter, with a private right of action. The HCRC supports the intent of H.B. No. 713, H.D.2, and will not oppose it if the bill is amended to remove this new prohibited employment practice from Chapter 378, Part I, and HCRC jurisdiction.

Thank you for considering the HCRC's concerns.

**Testimony to the Senate Committees on Technology and the Arts and
Commerce and Consumer Protection
Wednesday, March 20, 2013 at 10:00 A.M.
Conference Room 229, State Capitol**

RE: HOUSE BILL 713 HD2 RELATING TO SOCIAL MEDIA

Chairs Wakai and Baker, Vice Chairs Nishihara and Galuteria, and Members of the Committees:

The Chamber of Commerce of Hawaii ("The Chamber") **has serious concerns on HB 713 HD2 Relating to Social Media.**

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber appreciates the intent of the bill. We understand that several high profile cases that happened on the mainland brought this issue forward. However, we do not believe that this is a prevalent problem in Hawaii.

We appreciate the intent of the bill but we believe that it needs more discussion before moving forward.

Thank you for this opportunity to express our views.

From: mailinglist@capitol.hawaii.gov
To: [TECTestimony](#)
Cc: anakama@wik.com
Subject: Submitted testimony for HB713 on Mar 20, 2013 10:00AM
Date: Monday, March 18, 2013 5:13:42 PM
Attachments: [HB713_HD2.pdf](#)

HB713

Submitted on: 3/18/2013

Testimony for TEC/CPN on Mar 20, 2013 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Allison	State Privacy and Security Coalition	Oppose	Yes

Comments: Oppose current draft; request amendment

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**TESTIMONY ON
HB 713 HD 2, RELATING TO SOCIAL MEDIA
BY
JEANNINE SOUKI
ON BEHALF OF THE
STATE PRIVACY AND SECURITY COALITION**

**Sen. Glenn Wakai
Chair, Senate Committee on Technology and the Arts**

**Sen. Rosalyn H. Baker
Chair, Senate Committee on Commerce and Consumer Protection**

**Hawaii State Capitol, Conference Room 229
Wednesday, March 20, 2013, 10:00 AM**

- The State Privacy and Security Coalition – a coalition of 19 leading communications, technology and media companies and 5 trade associations – has some serious concerns with HB 713, HD 2, as currently drafted. We appreciate the overall intent of the bill, but believe that it is very important that the bill focus on a slightly narrower set of information and be more balanced with additional exceptions before it becomes law.
- In its current form, the bill would prohibit an employer from “requiring, requesting, suggesting or causing” an employee or potential employee to disclose a username or password for the purpose of accessing the employee's or potential employee's personal online account. This is an overbroad prohibition as drafted, because many people use their home email address as their “user name” for personal online accounts. As a result, employers would be strictly liable under the bill for simply asking for employee home email addresses to be able to contact employees in the event that the work email system goes down. Additionally, this would prohibit employers from friending any employees on Facebook, when the employee is free not to accept.
- Moreover, the terms “suggest” and “cause” are overbroad and are used in no state social media privacy law, as they would well reach inadvertent methods that result in obtaining a user name and password – for example, simply requesting that an employee choose their own password for a work account, when the employee happens to select the same password the employee uses on a personal online account.
- There have been reports of employers asking job-seekers for access to job-seekers' personal online accounts. We agree that there is no valid reason for employers in almost all sectors to request that potential employees relinquish log-in credentials for personal online accounts.
- It is likewise true that obtaining private account log-in credentials for an employee can be a significant privacy intrusion, and should occur only for very narrow and specific purposes.

- At the same time, none of these concerns apply to employee use of work accounts provided by an employer, or to online accounts that an employee uses for business purposes. It is critical that social media privacy bills not prevent employers from supervising work-related employee activities – for example, following an employee’s job-related posts on Twitter through an account that the employee has set up (in fact, this is sometimes required by federal securities laws). It is likewise critical that employers be able to access these accounts as employers can be held legally responsible for employee actions using these accounts, and because they are the employer’s property.
- While the bill contains an exception for employers “*to require an employee to divulge a personal account reasonably believed to be relevant to an investigation of allegations of employee misconduct or employee violation of applicable law,*” this should be broadened to allow employers to protect the company by reviewing employee posts and communications made on behalf of the company from an employee’s personal online account.
- We also urge you to add an exception for monitoring, filtering or blocking communications across an employer’s network. This exception is necessary to avoid creating risk of liability that would deter employers from using “data loss prevention” programs that monitor all data flowing across an employer’s network to prevent sensitive information, including financial account numbers or social security numbers, from being transmitted outside of a company’s network. If employees log in to a personal online account from work, then this information may be collected incidentally as part of these programs.
- Without these narrow and entirely reasonable exceptions, this very well-intentioned bill could undermine the security of company networks and devices. With them, the bill would address an important privacy issue in a thoughtful and balanced way.
- Finally, to the extent that employers are prohibited from requesting employees’ or potential employees’ log-in credentials, employers should not be subject to any claim for negligent hiring for failing to make that prohibited request.
- We respectfully urge the Committee to amend this bill to address the issues above. For your convenience, we have attached a potential amendment to the bill and would be happy to work with you further on this. Thank you for the opportunity to testify, and we appreciate your consideration of our concerns.

wakai1 - Danille

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 19, 2013 11:01 AM
To: TECTestimony
Cc: lt@acluhawaii.org
Subject: Submitted testimony for HB713 on Mar 20, 2013 10:00AM
Attachments: 3.20.13.pdf

HB713

Submitted on: 3/19/2013

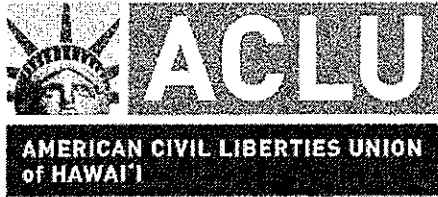
Testimony for TEC/CPN on Mar 20, 2013 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Temple	ACLU of Hawaii	Support	No

Comments:

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Committee: Committee on Technology and the Arts
Committee on Commerce and Consumer Protection
Hearing Date/Time: Wednesday, March 20, 2013, 10:00 a.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawaii in Support of H.B. 713, HD2, Relating to Social Media

Dear Chairs Wakai and Baker and Members of the Committees:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 713, H.D.2, which prohibits social media snooping by employers.

This law is necessary because the privacy line should be clear: any communications not intended to be viewable by the general public are out of bounds for all employers, including law enforcement.

A growing number of employers are demanding that job applicants and employees hand over the passwords to their private social networking accounts such as Facebook. Such demands constitute a grievous invasion of privacy. Private activities that would never be intruded upon offline should not receive less privacy protection simply because they take place online. It is inconceivable that an employer would be permitted to read an applicant's diary or postal mail, listen in on the chatter at their private gatherings with friends, or look at their private videos and photo albums. Nor should they expect the right to do the electronic equivalent.

Employer policies that request or require employees or applicants to disclose user names and/or passwords to their private internet or web-based accounts, or require individuals to let employers view their private content, constitute a frightening and illegal invasion of privacy for those applicants and employees - as well those who communicate with them electronically via social media. Even when a Facebook page is open to all, it goes too far to require a person to share login information or otherwise permit the viewing of private messages that have been exchanged using the service.

Social media snooping by employers may expose information about a job applicant (such as age, religion, ethnicity, or pregnancy) which an employer is forbidden to ask about. That can expose an applicant to unlawful discrimination and can subject an employer to lawsuits from rejected job candidates claiming such discrimination. Moreover, when a person is forced to share private account information, not only has that person's privacy been violated, but also the privacy of

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friends, family, clients, and anyone else with whom that person may have communicated or connected with online.

We are concerned that employers may begin to require this information from job applicants without clear statutory language against it. While employers may permissibly incorporate some limited review of public internet postings into their background investigation procedures, review of password-protected materials overrides the privacy protections users have erected and thus violates their reasonable expectations of privacy in these communications. As such, we believe that policies such as this may be illegal under the federal Stored Communications Act (SCA), 18 U.S.C. §§2701-11 and Hawaii's privacy laws.¹ These laws were enacted to ensure the confidentiality of electronic communications, and make it illegal for an employer or anyone else to access stored electronic communications without valid authorization. Additionally, such practices constitute the common law tort of invasion of privacy and arguably chill employee speech and due process rights protected under the First and Fourteenth Amendments to the U.S. Constitution.²

These types of practices also violate Facebook's own policies. Facebook's Statement of Rights and Responsibilities states under the "Registration and Account Security" section that Facebook users must make ten commitments to the company relating to the registration and maintenance of the security of the account. The Eighth Commitment states "You will not share your password, (or in the case of developers, your secret key), let anyone else access your account, or do anything else that might jeopardize the security of your account."

<https://www.facebook.com/terms#!/legal/terms>. Thus, sharing one's password or access to one's account with potential or current employers violates these terms of agreement.

H.B. 713, H.D.2 merely updates current law to keep pace with technology.

¹ Section 2701 of the SCA makes it illegal to intentionally (1) access a facility through which an electronic communication service is provided, without valid authorization; or (2) exceed an authorization to access that facility, thereby obtaining an electronic communication while it is in electronic storage in such a system. 18 U.S.C. §2701(a)(1)-(2).

² In a different context factually, the National Labor Relations Board (NLRB) made headlines last November by issuing a complaint against a Connecticut company that fired an employee who criticized the company on Facebook, in violation of the company's social media policy. *E.g.*, "Feds: Woman Illegally Fired Over Facebook Remarks," available at: http://www.myfoxdc.com/dpp/news/offbeat/feds-woman-illegally-fired-over-facebook-remarks-110910?CMP=201011_emailshare; "Labor Board: Facebook Vent Against Supervisor Not Grounds for Firing," available at: <http://www.cnn.com/2010/TECH/social.media/11/09/facebook.firing/index.html>. The NLRB maintains that both the firing and the social media policy itself violate employees' protected speech rights under the National Labor Relations Act. *See* NLRB Press Release, http://www.nlr.gov/shared_files/Press%20Releases/2010/R-2794.pdf. While the Connecticut case involves the employee's right to engage in particular speech protected under the NLRA, it also addresses the limits that federal law places on employers' interference and monitoring of employees' social media use more generally, and thus is worthy of notice.

Chairs Wakai and Baker and Members of Committees
March 20, 2013
Page 3 of 3

This legislation does not change current law regarding background checks. Prospective employers, including law enforcement officials, can still use the Internet to access public profiles of job candidates. All this law prohibits is accessing private sites and materials. The employer will still retain access to all publicly available information (and thus all information implicating public perception of the employer).

Electronic surveillance often goes well beyond legitimate management concerns and becomes a tool for employers to spy on the personal and private lives of their employees. Employers have a *legitimate* interest in monitoring employees' work to ensure efficiency and productivity. H.B. 713, H.D.1 would not prohibit legitimate work-related oversight and would make sure employees' private lives can remain private. In the interest of maintaining our right to privacy, free speech and association, please pass H.B. 713, H.D.1.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

The American Civil Liberties Union ("ACLU") is our nation's guardian of liberty - working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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wakai1 - Danille

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 19, 2013 4:09 AM
To: TECTestimony
Cc: todd.thakar@prudential.com
Subject: Submitted testimony for HB713 on Mar 20, 2013 10:00AM
Attachments: HB713,HD2TESTIMONY.docx

HB713

Submitted on: 3/19/2013

Testimony for TEC/CPN on Mar 20, 2013 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Todd Thakar	Prudential Financial	Oppose	Yes

Comments:

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**TESTIMONY ON
H.B. 713, H.D. 2, RELATING TO SOCIAL MEDIA
BY
TODD THAKAR
ON BEHALF OF THE
PRUDENTIAL FINANCIAL**

**Sen. Glenn Wakai
Chair, Senate Committee on Technology and the Arts**

**Sen. Rosalyn H. Baker
Chair, Senate Committee on Commerce and Consumer Protection**

**Hawaii State Capitol, Conference Room 229
Honolulu, HI 96813
Wednesday, March 20, 2013, 10:00 AM**

Prudential Financial supports the intent of H.B. 713, H.D. 2 relating to Social Media and efforts to protect employee personal social media account information and to prevent abusive practices; however, as currently drafted, we have serious concerns that the bill will inadvertently prevent Prudential and other Financial Services companies from implementing efforts to timely deter and prevent fraud, misappropriation, and senior financial abuse or exploitation. Accordingly, Prudential respectfully urges the Committee to adopt the State Privacy and Security Coalition amendments (the "Amendments").

The Amendments are not intended to compromise the protection of strictly personal social media account information, but rather the Amendments will assure that Prudential and other Financial Services companies and employers can continue to implement other critical consumer protections. At Prudential, we ask employees about accounts through which they may be conducting Prudential business. Aside from that, we generally do not ask about personal accounts; however, pursuant to FINRA Rule 3270, we are required to ask our registered representatives to disclose if they have any "business activity outside the scope of their relationship" with Prudential. If a representative has "outside business activity" then we ask about the email account through which they conduct that activity and FINRA requires that Prudential monitor those email activities. As currently drafted, we have concerns that H.B. 713, H.D. 2 would hinder our ability to monitor such email accounts and thus, support the State Privacy and Security Coalition amendment to add "electronic mail created, maintained, used or accessed by an employee or potential employee for business purposes of the employer or to engage in business related communications" to the list of exclusions from the definition of "personal account."

In addition, we believe that the Amendments regarding investigations are critical to enable Prudential and other companies to conduct an investigation when the employer has specific information about work-related misconduct or an unauthorized transfer of proprietary information or financial data to an employee's personal account. These Amendments are important to help us sustain our ability to protect against identity theft. It is important to note

that these Amendments have been carefully drafted to allow the employer to review the specific content of an account to make a factual determination; however, the employer still would not have access to an employee's user name and password.

The Amendments also address technical changes to assure that the bill does not inadvertently create strict liability. For example, by not linking disclosure of a "username and password" a company could be in violation of the bill because the employee's standard log-in user name for a personal account could be the same as their work log-in. Similarly, by using the words "suggest or cause", the employer could be liable by simply asking an employee to create a password and the employee elects to use the same password for their work account that they also use for a personal account.

At Prudential we take our responsibility to protect both our employees and our customers very seriously. To this end, we support the intent of H.B. 713, H.D. 2 and believe that the State Privacy and Security Coalition amendments will assure that Hawaii's efforts to bring Social Media protections do not otherwise undermine other equally important consumer protections that Prudential and other employers currently utilize to protect the well-being of both our customers and our employees.

For all of these reasons, we respectfully urge that the Committee adopt the State Privacy and Security Coalition amendments.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION TO HB 713, HD 2, RELATING TO SOCIAL MEDIA

March 20, 2013

Hon. Senator Glenn Wakai, Chair
Senate Committee on Technology and the Arts
Hon. Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Senate
Hawaii State Capitol, Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Wakai, Chair Baker and Committee Members:

Thank you for the opportunity to testify in opposition to HB 713, HD 2, relating to Social Media.

Our firm represents the American Council of Life Insurers ("ACLI"), a Washington, D.C., based trade association with more than 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred thirty-two (232) ACLI member companies currently do business in the State of Hawaii; and they represent 94% of the life insurance premiums and 92% of the annuity considerations in this State.

Today, many individuals use social media accounts and personal devices for both business and personal purposes.

ACLI and its member companies believe that an individual's personal information should remain private and should not be subject to arbitrary inspection by an employer or prospective employer.

Accordingly, ACLI supports the intent and purposes of HB 713, HD 2.

However, legislation which seeks to protect strictly personal social media account information must simultaneously accommodate legal and regulatory requirements imposed upon life insurers that certain communications be reviewed and retained to comply with recordkeeping and other legal requirements.

Life insurance companies have legal obligations with respect to business communications made by their captive insurance producers and registered representatives of their affiliated broker-dealers or registered investment advisers (RIAs) under Hawaii insurance and federal and Hawaii securities laws and regulations as well as rules of self-regulatory organizations, such as FINRA.

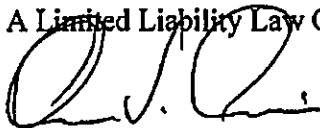
ACLI submits that more clarity in the language of the bill is required to enable a life insurer to more effectively monitor and supervise its captive producers' in their communications with the

public as required by law but at the same time protect the legitimate privacy of its captive producers and representatives in their personal communications.

ACLI, therefore, opposes the bill as currently drafted and supports the proposed revisions to the bill submitted to this Committee by the State Privacy and Security Coalition and Prudential Financial.

Again, thank you for the opportunity to testify in opposition to HB 713, HD 2, relating to Social Media.

LAW OFFICES OF
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