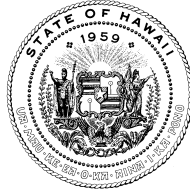


SB2681

Measure Title:	RELATING TO CONSUMER CREDIT REPORTING AGENCIES.
Report Title:	Consumer Credit Reporting Agencies; Identity Theft; Protected Consumer; Security Freeze; Credit Report; Protective Record
Description:	Requires a consumer credit reporting agency to create a protective record for protected consumers, including minors under the age of eighteen and incapacitated persons, who do not have an existing credit report. Permits a representative of a protected person to place a security freeze on a protected consumer's credit report or protective record.
Companion:	HB1855
Package:	None
Current Referral:	CPH
Introducer(s):	BAKER, CHUN OAKLAND, ENGLISH, GALUTERIA, HARIMOTO, INOUYE, KEITH-AGARAN, KIDANI, SHIMABUKURO, TOKUDA, Kahele, Kim



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**PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION**

**TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016**

**FEBRUARY 19, 2016
9:00 AM**

**TESTIMONY ON SENATE BILL 2681, RELATING TO CONSUMER CREDIT
REPORTING AGENCIES**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs (“DCCA”), Office of Consumer Protection (“OCP”) supports Senate Bill No. 2681, Relating to Credit Reporting Agencies. My name is Stephen Levins and I am the Executive Director of the OCP.

The OCP is very concerned about the negative impacts identity theft is causing as it continues to plague our society. Annually millions of people are impacted by this growing threat. Children in particular are most vulnerable. In fact, according to the

Identity Theft Assistance Center, 1 in 40 families with children under 18 had at least one child whose personal information was compromised.

Child identity theft is one of the worst forms of identity theft because it often goes unchecked and unnoticed for years. A criminal who steals a child's social security number can operate for years with impunity. This is because a family probably won't know that their child's identity has been compromised until they try to obtain a credit card and get turned down because of a long history of unpaid bills that they had nothing to do with.

S.B. 2681 seeks to safeguard "protected consumers" (minors or the incapacitated) from such injustices by offering them the same protections as everyone else.

The bill seeks to accomplish this goal in 4 significant ways:

1. It permits a representative of a protected consumer to place a security freeze on the credit record or report of a protected consumer;
2. It establishes protocols that credit reporting agencies must follow in relation to a security freeze;
3. It specifies the written notification that credit reporting agencies are required to provide in relation to security freezes; and
4. It applies specified laws pertaining to standard security freezes to protected consumer security freezes.

At least 22 other states have already passed similar legislation to the one being proposed by this bill. These states include, Arizona, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Montana,

Nebraska, New York, Oregon, South Carolina, Tennessee, Texas, Utah, Virginia and Wisconsin. Children and other minors under the age of 18 in Hawaii deserve the same protections afforded to those on the mainland. We respectfully request that the Committee vote to add Hawaii to that list.

Thank you for the opportunity to testify in support of S.B. 2681. I am available for any questions that you may have regarding this bill.

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Consumer Data Industry Association**

DATE: February 18, 2016

TO: Senator Rosalyn Baker
Chair, Committee on Commerce, Consumer Protection, and Health

Submitted Via CPHtestimony@capitol.hawaii.gov

RE: **S.B. 2681 – Relating to Consumer Credit Reporting Agencies**
Hearing Date: Friday, February 19, 2016 at 9:00 a.m.
Conference Room: 229

Dear Chair Baker and Members of the Committee on Commerce, Consumer Protection, and Health:

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 S.B. 2681, 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 ultimately lead to more fraud issues.

Maryland was the first state to pass a law to specifically protect minors from credit fraud, and since then, a total of 21 states have enacted similar laws based upon the Maryland model. We would encourage Hawaii to follow this model, which creates a new term of art called a "record" and then requires the credit bureaus, on request of a

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parent or 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.

Below is proposed language of this concept for the Committee's consideration.

Thank you very much for the opportunity to testify.

PROPOSED S.D. 1

SECTION 1. Chapter 489P, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§ 489P- Credit freeze for minors. (a) A credit reporting agency shall place a security freeze for a protected consumer if:

(1) The credit reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(2) The protected consumer's representative:

(A) Submits the request to the credit reporting agency at the address or other point of contact and in the manner specified by the credit reporting agency;

(B) Provides to the consumer credit reporting agency sufficient proof of identification of the protected consumer and the representative;

(C) Provides to the consumer credit reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

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

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

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

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

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

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

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

(f) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) Submit a request for the removal of the security freeze to the consumer credit reporting agency at the address or other point of contact and in the manner specified by the consumer credit reporting agency;

(2) Provide to the consumer credit reporting agency:

(A) In the case of a request by the protected consumer:

(i) Proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; and

(ii) Sufficient proof of identification of the protected consumer; or

(B) In the case of a request by the representative of a protected consumer:

(i) Sufficient proof of identification of the protected consumer and the representative; and

(ii) Sufficient proof of authority to act on behalf of the protected consumer; and

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

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

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

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

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

(A) The protected consumer's representative:

(i) Has obtained a report of alleged identity theft against the protected consumer under section 708-839.6, 708-839.7, or 708-839.8; and

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

(B) A request for the placement or removal of a security freeze is for a protected consumer who is under the age of 16 years at the time of the request; and

(ii) The consumer credit reporting agency has a credit report pertaining to the protected consumer.

(i) A consumer credit reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

(j) This section does not apply to:

(1) A person administering a credit file monitoring subscription service to which:

(A) The protected consumer has subscribed; or

(B) The representative of the protected consumer has subscribed on behalf of the protected consumer;

(2) A person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report on request of the protected consumer or the protected consumer's representative;

(3) An entity or purpose listed in § 489P-3(1)(8)- 489P-3(1)(10), or § 489P-5 or

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

(A) Criminal record information;

(B) Personal loss history information;

(C) Fraud prevention or detection;

(D) Employment screening; or

(E) Tenant screening.

(k) As used in this section, unless the context otherwise requires:

“Protected consumer” means an individual who is:

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

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

“Record” means a compilation of information that:

(1) Identifies a protected consumer;

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

(3) May not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose listed in 15 U.S.C. § 1681b.

“Representative” means a person who provides to a consumer credit reporting agency sufficient proof of authority to act on behalf of a protected consumer.

“Security freeze” means:

(1) If a consumer credit reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(A) Is placed on the protected consumer’s record in accordance with this section; and

(B) Prohibits the consumer credit reporting agency from releasing the protected consumer’s record except as provided in this section; or

(2) If a consumer credit reporting agency has a file pertaining to the protected consumer, a restriction that:

(A) Is placed on the protected consumer’s credit report in accordance with this section; and

(B) Prohibits the consumer credit reporting agency from releasing the protected consumer’s credit report or any information derived from the protected consumer’s credit report except as provided in this section.

“Sufficient proof of authority” means documentation that shows a representative has authority to act on behalf of a protected consumer, which includes:

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

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

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

“Sufficient proof of identification” means information or documentation that identifies a protected consumer or a representative of a protected consumer, which includes:

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

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

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

(4) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that show a name and home address.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2017.