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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 2, 2018
2:00 pm

**TESTIMONY ON HOUSE BILL NO. 2342, RELATING TO CONSUMER CREDIT
REPORTING AGENCIES.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 2342, Relating to Consumer Credit Reporting Agencies. My name is Stephen Levins, and I am the Executive Director of the Department’s Office of Consumer Protection. The Department strongly supports this administration bill, which is a companion to S.B. 2769.

This bill allows a consumer reporting agency to place, temporarily lift, or remove a security freeze on the credit report of a consumer, protected consumer, or protected consumer’s representative (collectively, the “consumer”), without requiring the consumer to first meet certain conditions.

Recent events involving security breaches of databases containing sensitive identifying information, such as social security numbers and addresses, have shown that repositories of consumers’ personal information continue to be at high risk of infiltration by identity thieves. On July 29, 2017, consumer reporting agency Equifax discovered that criminals exploited a website vulnerability to gain access to names,

social security numbers, birth dates, addresses, and driver's license numbers. In addition, criminals accessed the credit card numbers of 209,000 U.S. consumers and documents containing personal identifying information of approximately 182,000 U.S. consumers. This single cybersecurity incident potentially impacted 143 million U.S. consumers, of which approximately 449,982 were Hawaii consumers.

Although some consumers have taken steps to protect their personal information, many consumers have not requested that consumer reporting agencies place security freezes on their credit reports due to the associated costs and inconvenience. Currently, a consumer wishing to place a security freeze must send a request and payment of the \$5.00 fee to each major consumer reporting agency: Equifax, Experian, and TransUnion. A security freeze means the consumer's credit file cannot be shared with potential creditors, such as banks or mobile carriers. Therefore, if a consumer wants to open a new credit card account while a security freeze is in place, the consumer must contact and pay \$5.00 to all three consumer reporting agencies to temporarily lift the security freeze. After the creditor has obtained information from the consumer's credit file, the consumer must reinstate the security freeze by repeating the earlier steps. In this scenario, the consumer potentially pays \$45.00 in fees to the credit reporting agencies.

SECTIONS 3 and 4 of this bill amend Hawaii Revised Statutes ("HRS") sections 489P-3 and 489P-3.5 by eliminating: (1) the \$5.00 fee a consumer reporting agency charges a consumer to place, temporarily lift, or remove a security freeze; and (2) the requirement that a consumer send by certified mail proof of identity theft, such as a report from a law enforcement agency, and the security freeze request. This bill also expands the methods by which a consumer can submit the security freeze request, including first-class mail, telephone, secure website, and secure email connection.

As the number of identity thefts and security breaches continues to rise, consumers should be able to place, temporarily lift, or remove security freezes on their credit reports without being charged fees or needing to provide consumer reporting agencies with proof of identity theft by certified mail to obtain a fee waiver.

Thank you for the opportunity to testify in strong support of this administration bill, and we ask for your favorable consideration.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Consumer Protection & Commerce

Testimony by
Hawaii Government Employees Association

February 2, 2018

H.B. 2342 – RELATING TO CONSUMER
CREDIT REPORTING AGENCIES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the intent of H.B. 2342 which eliminates the fee charged by a consumer reporting agency to place, lift, or remove a security freeze and allows a consumer to request a security freeze at any time. The passage of this measure is increasingly important, especially in light of the 2017 Equifax breach that exposed over 145 million U.S. social security numbers, driver's license numbers and personal information. Consumers should not be mandated to pay a fee, even a nominal fee, to freeze their credit reports.

Thank you for the opportunity to testify in support of H.B. 2342.

Respectfully submitted,

Randy Perreira
Executive Director



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House of Representatives
Committee on Consumer Protection & Commerce
Friday, February 2, 2018
2:00 p.m.
Conference Room 329

To: Representative Roy Takumi, Chair
Re: H.B. No. 2342, Relating to Consumer Credit Reporting Agencies

Dear Chair Takumi, Vice-Chair Ichiyama and Members of the Committee,

My name is Kerry M. Komatsubara and I am the Advocacy Director for AARP Hawai'i. AARP is a membership organization of people age fifty and over with about 150,000 members in Hawai'i. AARP advocates for issues that matter to Hawaii families, including the high cost of long-term care; access to affordable, quality health care for all generations; and serving as a reliable information source on issues critical to people over the age of fifty.

AARP Hawai'i strongly supports H.B. No. 2342 which prohibits a consumer credit reporting agency from charging a fee for placing, lifting or removing a security freeze on a consumer's credit report or for placing or removing a security freeze on a protected consumer's credit report or records.

AARP Fraud Watch Network Ambassador Frank Abagnale Jr. helped pass the first law eliminating credit freeze fees in his home state of South Carolina. You may know of him because his autobiography was made into the movie *Catch Me if You Can* by director Steven Spielberg. As a teenager, Abagnale was an identity thief who stole millions of dollars from airlines and banks. He's since turned his life around and became a consultant to the FBI on fraud and is a top expert on identity theft.

Abagnale came to Hawaii last year to help consumers here fight back against fraud. His visit came just after the credit reporting agency Equifax reported that information on millions of consumers was stolen from their data files.

Abagnale and other fraud experts say that one of the best ways to protect yourself against identity theft is to freeze your credit. A credit freeze enables you to know who wants access to your credit information and to approve the release of your credit report. That gives you a say in who can see your information. It will only be released to companies that you approve. So if you want to apply for a loan, you can unfreeze your credit so the loan officer can see it. But if an identity thief tries to use your credit report to open a credit card in your name, you can stop it.

Hawaii law allows credit reporting agencies to charge \$5 to freeze and unfreeze your credit report. There are five credit reporting agencies so the fees can add up. AARP Hawaii believes that your credit report is your information. Credit reporting agencies already make money selling your information. They shouldn't be able to make more money from you if you want to protect that information.

Thank you for the opportunity to testify in support of H.B. No. 2342.

Real Possibilities

To: Committee on Consumer Protection and Commerce

Representative Roy Takumi, Chair

Date: January 30, 2018

Re: HB 2342, Relating to Consumer Credit Reporting Agencies

Dear Chair Takumi, Vice-Chair Ichiyama and Members of the Committee:

Thank you for the opportunity to submit written testimony in **STRONG SUPPORT** of HB 2342, Relating to Consumer Credit Reporting Agencies.

My name is Chalintorn N. Burian, Ph.D. and I am a retiree. I live in Paauilo-Mauka on the Big Island. The passage of this Bill is vital as:

The Bill prohibits a consumer credit reporting agency from charging a fee for placing, lifting or removing a security freeze on a consumer's credit report or for placing or removing a security freeze on a protected consumer's credit report or records.

As a member of Honokaa Seniors Club on the Big Island, I have often heard from other seniors about frauds or fraud attempts they have experienced. Fraud experts say that one of the best ways to protect yourself against identity theft is to freeze your credit. A credit freeze enables you to know who wants access to your credit information and to approve the release of your credit report. That gives you a say in who can see your information. It will only be released to companies that you approve. So if you want to apply for a loan, you can unfreeze your credit so the loan officer can see it. But if an identity thief tries to use your credit report to open a credit card in your name, you can stop it.

Hawaii law allows credit reporting agencies to charge \$5 to freeze and unfreeze your credit report. There are five credit reporting agencies so the fees can add up. This can become large amount that seniors cannot afford to pay. I believe that anyone's credit report is his/her information. Credit reporting agencies already make money selling this information. They shouldn't be able to make more money from him/her if one wants to protect that information.

I urge you to support caregivers by voting **YES** on HB 2342. Mahalo!

Chalintorn N. Burian, Ph.D.

Positive and Productive Aging Consultant.

Paauilo-Mauka, Hawaii District

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SanHi

GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 1, 2018

TO: Representative Roy Takumi
Chair, Committee on Consumer Protection and Commerce
Submitted Via Capitol Website

RE: **H.B. 2342 - Relating to Consumer Credit Reporting Agencies**
Hearing Date: Friday, February 2, 2018 at 2:00 p.m.
Conference Room: 329

Dear Chair Takumi and Members of the Committee on Consumer Protection and 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 100 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment screening, tenant screening and collection services.

CDIA submits **comments** regarding H.B. 2342, which eliminates the fee charged by a consumer reporting agency to place, lift, or remove a security freeze requested by a consumer, protected consumer, or a protected consumer's representative, and allows a consumer to request a security freeze at any time.

CDIA has concerns about eliminating the fees for security freezes, but takes no position regarding the proposal in this bill to make security freezes free. However, CDIA respectfully requests that the following amendments which are of concern be made to the bill:

- 1) **Delete reference to secure e-mail (page 3 line 20).** The current proposal allows for freeze requests to be made by e-mail. However, email is not secure and cannot be a vehicle for sensitive communications of a consumer's SSN, DOB, and other identifying information. Allowing e-mails will leave the security freeze process open to vulnerabilities so
- 2) **Restore the allowance for a security freezes to be lifted if a consumer commits an act of material misrepresentation (delete strikeout on page 4, lines 11-12).** If a consumer has committed a fraud against a consumer reporting agency, it would be appropriate for agencies to continue to be able to lift a security freeze. Consumer reporting agencies should not be required to tolerate fraud perpetrated by a malicious consumer.
- 3) **Transition period (page 8, line 5).** Consumer credit reporting agencies will require time to implement this change into their systems, which will require making internal programming changes and training staff within various

departments within the companies. We would respectfully request a delayed implementation date of January 1, 2019 in order to implement the changes proposed in this bill and ensure that the companies can fully comply with these requirements.

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

HB-2342

Submitted on: 1/31/2018 9:17:08 PM

Testimony for CPC on 2/2/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Karjala		Support	No

Comments:

In 2017, the Credit Reporting Agency (CRA) Equifax's security was breached. This resulted in millions of consumer's personal information being released into the hands of hackers and criminals. This information can be used to apply for a credit card, loan, and otherwise damage a consumer's credit.

The only recourse that completely prevents this is to place a Security Freeze with each of the three credit reporting agencies. This requires the consumer to select who they may release their credit report to, using a specialized password. However, currenty Hawaii State Law allows the CRAs to charge a \$5 fee for:

- Temporarily lifting a Security Freeze
- Permanently lifting a Security Freeze
- Changing the user's password

These are the same agencies charging a fee that *should not have lost the consumer's private information in the first place.*

Please help to protect Hawaii's consumers and yourselves by passing SB2769 as is, unmodified, through your committee, and removing the ability for CRA's to charge this fee for Security Freezes.

The information for hackers to take advantage of the indiviual consumer is now out there, and be forever. Give us the ability to protect ourselves in perpetuity, without cost.

Thank you,

Patrick Karjala

Honolulu, HI

TESTIMONY - SUPPORT

Proposed Law Change for 2018 Session - HRS 489P-3 relating to Credit Card Security Freeze Fees

Dear Rep. Takumi,

My name is Patrick Karjala; I am a constituent in Rep. Ohno's district, and was directed by him to contact you regarding the proposed law changes below, as you chair the committee on Consumer Protection & Commerce in the State House.

I am writing today to request a change to Hawaii State Law, and ask for you to support the proposal that will be included in the DCCA's packet for the 2018 Legislative Session. I have already spoken with my respective Representative and Senator, Takashi Ohno and Karl Rhoads, as well as Sen. Baker who chairs the Senate's Commerce, Consumer Protection, and Health committee. I have also spoken with the HGEA. All listed parties support this change to the law.

This proposed change is to remove fees that Credit Reporting Agencies are allowed to charge consumers related to security freezes on their credit report. This fee is set by law in HRS Vol 11 §489P-3 at \$5.

Due to the Equifax security breach reported in September of this year (more details at <https://www.consumer.ftc.gov/blog/2017/09/equifax-data-breach-what-do> and <https://www.equifaxsecurity2017.com/>), and due the consumer information leaked in the breach, consumers will be affected for decades to come. Any information leaked in the security breach will remain online in perpetuity, accessible or in the hands of criminals, and can be passed around and used to sign up for bogus credit and potentially used for ID theft. This has dire consequences for the credit of Americans who may be making major purchases or applying for loans towards things such as a house or education, in addition to having to be concerned with identity theft.

The only tool to protect against this reliably is a credit freeze. This prevents your credit report from being accessed without first approving the access through you, the credit holder. Each of the credit reporting agencies (Equifax, TransUnion, and Experian) offer this service, but it is not free in all states. In order to unfreeze your credit, you must pay a fee to do so. This varies state-by-state. Currently in Hawaii there is no fee to place a credit freeze, but there is a \$5 fee each time you wish to have the freeze lifted for a credit check, or \$5 to have it lifted permanently. This adds up for families who often have two or more credit holders, which then must file a request with the three different credit agencies.

I am urging you to work with the Hawaii State Legislature and Department of Commerce and Consumer Affairs to support the DCCA's proposed change requiring all Credit Reporting agencies to provide credit freeze services at no cost in perpetuity for the state of Hawaii. The information leaked in the breach is now out there in the world, and will be forever. Why should consumers have to pay to protect themselves for something not of their own fault?

What follows is an analysis of the existing law, and the proposed change to the Hawaii law.

My initial research regarding the credit freeze fee, and implementing a law in Hawaii that would remove the fee, was due to this

document: https://help.equifax.com/servlet/fileField?entityId=ka137000000DSDyAAO&field=attachment_body_s

It implies that each state sets its own laws regarding credit freeze fees, which further research shows is indeed the case.

Indiana has no fee for consumers to freeze their credit report. According to <https://www.in.gov/attorneygeneral/2677.htm> they passed and implemented a law in 2007 which removed credit freeze fees.

The section that applies in this case is <http://iga.in.gov/legislative/laws/2017/ic/titles/024#24-5-24-14>, which explicitly states that the Credit Reporting Agency may NOT charge a fee for any services related to security freezes; the text thereof is:

IC 24-5-24-14Fee prohibited Sec. 14. **A consumer reporting agency may not impose a charge on a consumer for a request from the consumer to do any of the following:**

- (1) Place a security freeze on a consumer's consumer report under section 5 of this chapter.
- (2) Issue the same or a new personal identification number or password to a consumer under section 6 of this chapter.
- (3) Release a consumer's consumer report to a third party upon request of the consumer under section 7(a)(1) of this chapter. In addition a consumer reporting agency may not impose a charge on the third party to whom the consumer's consumer report is released under section 7(a)(1) of this chapter in connection with the release.
- (4) Temporarily lift a security freeze under section 7(a)(2) of this chapter.
- (5) Remove a security freeze under section 9 of this chapter.

As added by P.L.104-2007, SEC.1.

(emphasis added)

Maine also has a law that prevents the charging of fees for credit freezes. http://www.maine.gov/pfr/consumercredit/file_freeze_info.htm is the site that has information on their credit freeze laws.

A bill was introduced in Maine in 2015 to modify their fees; you can read it at http://www.mainelegislature.org/legis/bills/bills_127th/billtexts/SP015002.asp. The current law in Maine located at <http://legislature.maine.gov/legis/statutes/10/title10sec1310.html> states that a consumer may not be charged fees for services related to a credit freeze; the text thereof is:

MRSA 10.3.209-B §1310

1. Security freeze by consumer reporting agency; time in effect. A person subject to this chapter shall comply with the following provisions regarding security freezes.
 - A. A consumer may place a security freeze on the consumer's consumer report as follows.
 - (2) Prior to October 1, 2015, a consumer who has not been the victim of identity theft may place a security freeze on the consumer's consumer report by making a request in writing by certified mail to a consumer reporting agency. A consumer reporting agency may charge a fee of no more than \$10 to a

consumer for each security freeze, removal of a security freeze or temporary suspension of a security freeze for a period of time or for reissuing the same or a new personal identification number if the consumer fails to retain the original personal identification number provided by the agency under paragraph D. A consumer reporting agency may charge a fee of not more than \$12 for a temporary suspension of a security freeze for a specific party. **Beginning October 1, 2015, a consumer reporting agency may not charge a fee for placing, removing or suspending for a specific party or period of time a security freeze on a consumer report.** [2015, c. 139, §2 (AMD).]
(emphasis added)

It is important to note that it is NOT the Credit Reporting Agency who sets the fee for security freezes; the DCCA has been mistaken in previously stating that it is the Credit Reporting Agency that sets and regulates the fee.

The relevant section that sets the fee in Hawaii is HRS Vol 11 §489P-3 Security freeze by consumer reporting agency (http://www.capitol.hawaii.gov/hrscurrent/Vol11_Ch0476-0490/HRS0489P/HRS_0489P-0003.htm), which currently reads:

(a) Any consumer who is a resident of this State may place a security freeze on the consumer's credit report. A consumer credit reporting agency shall not charge a victim of identity theft a fee for placing, lifting, or removing a security freeze on a credit report but may charge any other consumer a fee not to exceed \$5 for each request by the consumer to place, lift, or remove a security freeze from the consumer's credit report.

A revised clause be changed by striking the following:

(a) Any consumer who is a resident of this State may place a security freeze on the consumer's credit report. A consumer credit reporting agency shall not charge <STRIKE>a victim of identity theft </STRIKE>a fee for placing, lifting, or removing a security freeze on a credit report <STRIKE>but may charge any other consumer a fee not to exceed \$5 for each request by the consumer to place, lift, or remove a security freeze from the consumer's credit report</STRIKE>.

resulting in:

(a) Any consumer who is a resident of this State may place a security freeze on the consumer's credit report. A consumer credit reporting agency shall not charge a fee for placing, lifting, or removing a security freeze on a credit report.

In HRS Vol 11 §489P-3 (a), after the previous paragraph, the following should also be changed:

A consumer who is a resident of this State <STRIKE>and has been the victim of identity theft </STRIKE>may place a security freeze on the consumer's credit report by making a request in writing by certified mail to a consumer credit reporting agency, at an address designated by the agency to receive such requests <STRIKE>, with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of the consumer's personal

information by another person. A consumer who has not been the victim of identity theft may place a security freeze on the consumer's credit report by making a request in writing by certified mail to a consumer credit reporting agency</STRIKE><ADD>, or at a website that the agency designates to receive such requests</ADD>.

resulting in:

A consumer who is a resident of this State may place a security freeze on the consumer's credit report by making a request in writing by certified mail to a consumer credit reporting agency, at an address designated by the agency to receive such requests, or at a website that the agency designates to receive such requests.

I am requesting that, in light of the severity of this security breach, the Hawaii state legislature enact a similar law to Indiana and Maine to protect consumers and allow credit freezes with zero fees. This is the only way to protect consumer's credit moving forward. The information that was leaked by this security breach is now out in the world permanently. It has the potential to impact anyone who's information was leaked for the remainder of their life. It is not reasonable that a consumer should have to pay a fee to a Credit Reporting Agency to protect their credit for the rest of their life, thereby also paying the agency that was supposed to *have protected the consumer's privacy in the first place*.

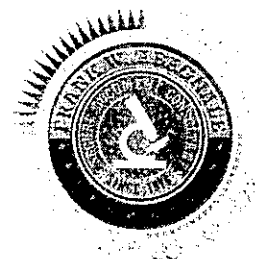
I think the Indiana and Maine laws are a great template for moving forward, and the suggested change is simple and straightforward. I hope that you will work with Senators Rhoads and Baker, and Rep. Ohno to support the DCCA's proposed 2018 Legislative Packet to remove these fees for consumer protections.

Thank you for your time.

Patrick Karjala

pkarjala@gmail.com

January 31, 2018



ABAGNALE
Associates

Thank you for the opportunity to express my strong support for a bill that I believe will help Hawaii residents, especially older Hawaii residents, protect themselves against identity theft. I am Frank Abagnale, subject of the book, movie and Broadway musical "Catch Me If You Can." I have a unique perspective having committed fraud as a teenager some 50 years ago and having spent the last 40 years of my life teaching at the FBI Academy and field offices of the Federal Bureau of Investigation. In my 40-year career, I have conducted over 3,000 lectures and written four books on these subjects and I have worked to try to prevent fraud, forgery, embezzlement, identity theft and other white-collar crimes.

What is truly amazing to an individual like me is that what I did 40 years ago as a teenager is 4,000 times easier to do today due to technology. A survey by Javlin Strategy & Research shows a 16% growth in fraud incidence in 2016. Fraud affected over six percent of U.S. consumers – the highest on record. The Consumer Sentinel Network, which collects consumer complaints from the Federal Trade Commission, state law enforcement agencies and other federal agencies, received over 3 million complaints in 2016 and state-by-state complaint data shows the largest losses are from individuals age 50+.

These are probably low estimates because many times consumers are too embarrassed to admit that they have been defrauded, and therefore it goes unreported. Their families may not even be told. Identity theft, investment fraud and scams rob millions of Americans of their hard-earned money every year. To help combat this threat, I have joined forces with AARP's Fraud Watch Network as their ambassador. The goal of the Fraud Watch Network is to arm Americans with the tools they need to spot and avoid fraud and scams so they can protect themselves and their families.

LETTER NO
016694

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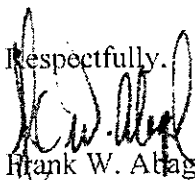
As part of my role as AARP Fraud Watch Network Ambassador, I spoke to audiences on Oahu and Maui in October about identity theft and what you can do to protect yourself and your family. The seminars came just after the massive Equifax data breach became public. The credit reporting agency said that personal information on 145 million consumers was stolen and if past data thefts are any indication, that number is likely to grow higher.

One of the best ways to protect yourself if you've been affected by a data breach is what's known as a security or credit freeze. If you freeze your credit, no one is going to get your credit report without your permission, which will likely prevent identity thieves from opening new accounts in your name. But states like Hawaii allow credit reporting agencies to charge a \$5 fee, per agency, every time you freeze your account and unfreeze it to allow the information to be released. So it can cost \$15 to freeze your information with all three major credit reporting agencies, then another \$15 to release your information if you apply for a loan or other credit, and \$15 to freeze it again.

There should be no reason for a fee because then that becomes a deterrent to people actually freezing their credit. The American consumer never told credit reporting agencies, "I give you permission to store my personal information." We didn't sign a piece of paper that said Equifax can store my name and date of birth. We never authorized that. Why should we be paying a fee to have control over our information?

I have testified before Congress and in my home state of South Carolina to eliminate the fee for everyone who wants to freeze and thaw their credit. Congress hasn't acted. But there is no fee now in South Carolina, North Carolina, Maine and Indiana thanks to their state legislatures. Hawaii can and should also act to help its consumers.

Respectfully,


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FWA/sn



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