

STAND. COM. REP.
NO. 673-04

Honolulu, Hawaii
, 2004

RE: H.B. No. 2674

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Second State Legislature
Regular Session of 2004
State of Hawaii

Sir:

Your Committees on Judiciary and Consumer Protection and Commerce, to which was referred H.B. No. 2674 entitled:

"A BILL FOR AN ACT RELATING TO IDENTITY THEFT,"

beg leave to report as follows:

The purpose of this bill as received by your Committees is to deter identity theft by requiring financial institutions to:

- (1) Take steps to protect private personal information of its consumers;
- (2) Notify consumers of any breaches of security of consumer records; and
- (3) Obtain permission from consumers for disclosure of personal information.

For the purpose of receiving public testimony, your Committees circulated a proposed H.D. 1 version of this bill. As amended, this proposed draft adds provisions that:

- (1) Require businesses to:

(A) Adopt practices that limit the use of social security numbers;

(B) Destroy records that contain personal information; and

(C) Refrain from printing credit card account numbers on receipts;

(3) Prohibit retail merchant club card issuers from requesting social security numbers or driver's license numbers except in limited circumstances and restrict their use of consumer information;

(4) Require businesses that own or license computer data to notify consumers of security breaches; and

(5) Exempt disclosure of social security numbers from payroll records that would otherwise be government public records;

(6) Specify that an individual has a significant privacy interest in protecting the individual's social security number from disclosure in government public records; and

(7) Establish criminal penalties for:

(A) Information trafficking;

(B) Using a false name to obtain government identification; and

(C) Fraudulently obtaining personal information through public utilities.

The Office of Information Practices and Legal Aid Society of Hawaii supported this bill. The Hawaii Medical Services Association supported the intent of this bill. The Office of the Public Defender, Hawaii Bankers Association, Hawaii Financial Services Association, Retail Merchants of Hawaii, Consumer Data Industry Association, Hawaii Association of Realtors, American Council of Life Insurers, and T-Mobile USA, Inc., opposed this bill. The Department of Commerce and Consumer Affairs, ILWU Local 142, State Farm, and an individual submitted comments.

Your Committees find that identity theft is a matter of significant concern for the residents of Hawaii. In 2003, Hawaii ranked 25th in the nation on the number of identity theft complaints filed with the Federal Trade Commission. However, many claims go unreported to government agencies, as victims struggle directly with credit agencies, banks, or other businesses to clear their names and financial records.

While Hawaii enacted criminal laws to address identity theft two years ago, it has been slow to enact consumer protection legislation in this area due to concerns raised by the business community. While many businesses are regulated by federal laws and regulations that protect consumer information

and provide procedures for consumers to challenge financial records when they are the victims of identity theft, most businesses remain unregulated with respect to the collection and dissemination of personal information of consumers.

The primary method to avoid being a victim of identity theft is protection of personal confidential information. Consumers and businesses must both be vigilant to ensure that certain types of information are secure from unlawful information trafficking. However, most consumers have no knowledge about how information about them is collected or shared with others, and for what purposes such information is being used.

Your Committees find that this bill is a small first step toward protecting the consumer against unnecessary collection and unauthorized or unknowing dissemination of personal information.

Upon further consideration, your Committees have amended this proposed H.D. 1 by deleting its contents except for provisions relating to retail merchant club cards and government records and further:

- (1) Clarifying that a retail merchant club card is not a credit card, charge card, or check cashing card; and
- (2) Specifying that a retail merchant club card issuer can ask for the last four digits of an applicant's social security number.

As affirmed by the records of votes of the members of your Committees on Judiciary and Consumer Protection and Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2674, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2674, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully
submitted on
behalf of the
members of the
Committees on
Judiciary and
Consumer
Protection and
Commerce,

<hr/> KENNETH T. HIRAKI, Chair		<hr/> ERIC G. HAMAKAWA, Chair
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