

1. 92F-3

“Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form. “Government record” shall not include truly preliminary writings ~~that are truly preliminary in nature~~, such as personal notes and rough drafts of memorandum, ~~that have not been finalized for circulation within or among the agency.~~

- Addresses confusion apparent in testimony by Bianca Isaki, Natalie Iwasa, and Grassroot Institute about scope of exclusion from government records

2. 92F-13

6) Inter-agency or intra-agency deliberative and pre-decisional government records, other than readily segregable purely factual information, up until the final decision the deliberative government records relate to has been made, ~~or until~~ deliberation of the matter has been abandoned, or, if earlier, one year has elapsed after a request for the record; provided that once disclosure is required, the name, title, or other information that would directly identify a public official or employee may be withheld if that person lacks discretionary authority, did not make the decision, and is not under investigation for or engaged in wrongdoing or criminal conduct. This exception does not apply to board packets as defined in section 92-7.5.

- Addresses legitimate concern that some agencies will use ambiguity over “decision” to delay access – Grassroot Institute and Peter Fritz

3. 92F-18 and Two Freestanding Provisions

(b) . . . The public reports shall include: . . .

(11) The agency procedures whereby an individual may request access to records; ~~and~~

(12) The number of written requests for access within the preceding year, the number denied, the number of lawsuits initiated against the agency under this part, and the number of suits in which access was granted; ~~and~~

(13) The agency’s use of HRS § 92F-13(6), including the date of each denied request and the text of the request.

(c) Each agency shall supplement or amend its public report, or file a new report, on or before July 1 of each subsequent year, to ensure that the information remains accurate and complete. Each agency shall file the supplemental, amended, or new report with the office of information practices, which shall make the reports available for public inspection.

This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

No later than January 1, 2028, the Office of Information Practices shall convene a working group to examine agency use of the new UIPA statutory exception, HRS § 92F-13(6). The working group shall prepare recommendations for whether to keep or repeal the exception and, if kept, for amendments, if any, warranted after reviewing use of the exception. The working group shall include seven members consisting of three individuals representing public interest groups; three individuals representing government agencies subject to the UIPA; and the Director of the Office of Information Practices or the Director's designee, who shall appoint the members and serve as the working group convener. The Director of the Office of Information Practices shall report the findings and recommendations of the working group to the Legislature no later than twenty days prior to the convening of the Regular Session of 2029.

- Adds a provision to gather data about the use of the new exception as part of the annual reports prepared by all agencies
- Adds a savings clause to expressly protect the accrued rights of requesters before the law is adopted; it may not be required under the normal retroactivity analysis, but it will avoid unnecessary disputes
- Adds a working group to revisit this issue in 5 years based on more concrete information about how the exception is being used and address any potential concerns about abuse of the exception
- Addresses overall anxiety of the community as reflected in nearly all of the testimony about a new exception to disclosure