



GOV. MSG. NO. **655**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB1212 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1212 HD1 SD1 CD1

A BILL FOR AN ACT
RELATING TO INFORMATION PRACTICES.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a large, stylized flourish at the end.

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1212
Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1212, entitled "A Bill for an Act Relating to Information Practices."

The purpose of this bill is to expand the information in which a licensee has a significant privacy interest by only allowing the record of complaints that have been resolved against a licensee to be subject to public disclosure. As a consequence, the information about licensees available to consumers will be limited, and no longer include pending complaints.

Currently, individuals who are granted licenses in the State do not have a significant privacy interest in the record of complaints, including all dispositions, received about them. Consumers have been, and should be, encouraged to obtain licensing and complaint information prior to consulting and retaining licensed professionals. The disclosure of a licensee's complete complaint record results in increased consumer awareness and informed decision-making. This bill will decrease information available to consumers and thereby hinder this process.

Although proponents of this bill are concerned that current practices allow frivolous complaints to become public, the procedures used by the Department of Commerce and Consumer Affairs Regulated Industries Complaints Office screen out over

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1212
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half of all complaints because they are frivolous, cannot be substantiated, do not involve a licensing violation, or can be resolved between the parties. Only when sufficient grounds have been found to start an investigation, does a complaint get disclosed in the Complaint History Report available to the public. As a courtesy, the State notifies the parties involved prior to the posting.

Unfortunately, this bill would restrict the Department's ability to disclose a significant number of the complaints that are currently available to over 500,000 individual reviewers who access this site each year. If complaints cannot be disclosed without an outcome, even if an investigation is underway, the complaint history becomes less useful to consumers. The report will no longer provide up to date information about licensees, and leaves consumers to question whether businesses and professionals not on the complaints list are those who truly have not received any complaints or those who have complaints pending. While improvements can be made to the complaint history record in a reasonable manner to accommodate licensee concerns, this bill is overly-broad and inappropriate.

For the foregoing reasons, I am returning House Bill No. 1212 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO INFORMATION PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 92F-14, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following are examples of information in which
4 the individual has a significant privacy interest:

5 (1) Information relating to medical, psychiatric, or
6 psychological history, diagnosis, condition,
7 treatment, or evaluation, other than directory
8 information while an individual is present at such
9 facility;

10 (2) Information identifiable as part of an investigation
11 into a possible violation of criminal law, except to
12 the extent that disclosure is necessary to prosecute
13 the violation or to continue the investigation;

14 (3) Information relating to eligibility for social
15 services or welfare benefits or to the determination
16 of benefit levels;



1 (4) Information in an agency's personnel file, or
2 applications, nominations, recommendations, or
3 proposals for public employment or appointment to a
4 governmental position, except:

5 (A) Information disclosed under section
6 92F-12(a)(14); and

7 (B) The following information related to employment
8 misconduct that results in an employee's
9 suspension or discharge:

10 (i) The name of the employee;

11 (ii) The nature of the employment related
12 misconduct;

13 (iii) The agency's summary of the allegations of
14 misconduct;

15 (iv) Findings of fact and conclusions of law; and

16 (v) The disciplinary action taken by the agency;
17 when the following has occurred: the highest non-
18 judicial grievance adjustment procedure timely invoked
19 by the employee or the employee's representative has
20 concluded; a written decision sustaining the
21 suspension or discharge has been issued after this
22 procedure; and thirty calendar days have elapsed



1 following the issuance of the decision; provided that
2 this subparagraph shall not apply to a county police
3 department officer except in a case ~~[which]~~ that
4 results in the discharge of the officer;

5 (5) Information relating to an individual's
6 nongovernmental employment history except as necessary
7 to demonstrate compliance with requirements for a
8 particular government position;

9 (6) Information describing an individual's finances,
10 income, assets, liabilities, net worth, bank balances,
11 financial history or activities, or creditworthiness;

12 (7) Information compiled as part of an inquiry into an
13 individual's fitness to be granted or to retain a
14 license, except:

15 (A) The record of any proceeding resulting in the
16 discipline of a licensee and the grounds for
17 discipline;

18 (B) Information on the current place of employment
19 and required insurance coverages of licensees;
20 and

21 (C) The record of complaints including all
22 dispositions; but in the case of persons licensed



1 under title 25, only the record of complaints
2 resolved against that person;

3 (8) Information comprising a personal recommendation or
4 evaluation; and

5 (9) Social security numbers."

6 SECTION 2. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 3. This Act shall take effect upon its approval
9 and shall be repealed on July 1, 2013.

