

NEIL ABERCROMBIE  
GOVERNOR



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STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
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TESTIMONY  
OF  
BRUCE A. COPPA, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE  
ON  
CONSUMER PROTECTION & COMMERCE  
ON  
February 14, 2011  
H.B. 678, H.D. 1

RELATING TO INFORMATION.

*oppose*

Chair Herkes and members of the Committee, thank you for the opportunity to testify on H.B. 678, H.D. 1.

While the Department of Accounting and General Services (DAGS) supports the overall intent of H.B. 678, H.D. 1, we are unable to support this bill due to several concerns.

1. We believe equal provisions should apply to incidents that occur in both the public and private sectors. It is clear from the public record that no sector is immune from data security issues, and the next breach could as easily be from an insurance company, healthcare provider or private college as another UH campus or state or county agency.
2. Mandatory credit reporting requirements will increase the cost of government and business in Hawaii. Mandatory credit reporting requirements generally notify individuals after-the-fact. Although early notification can be helpful, this is less effective than

stopping the crime via enhanced training before breaches occur or technical solutions that eliminate the need for use or retention of personal information. Instead, we suggest requiring credit agencies to provide free and convenient credit freeze services to anyone who is notified of a data breach by any public or private organization. This would help prevent identity theft rather than help detect it after-the-fact. And unlike the current legislation, it would protect Hawaii residents who are notified of breaches by national organizations as well, including the federal government, credit card companies, alumni associations, hotels and online merchants. Further extension of free credit freeze services to all Hawaii residents, whether or not they have been notified of a breach, would even more strongly protect Hawaii citizens from identity theft, most of which has origins other than local data breaches. This approach would have no additional direct costs to Hawaii businesses or government and would provide significantly greater protection to consumers beyond those who might be affected by local public or private sector data breaches.

3. If required to establish and pay for credit monitoring services (or credit freeze services), for public agencies to provide commercial credit monitoring services in a timely manner, either a master contract would need to be in place or the selection of the service would need to be fully exempt from 103D. Otherwise it would be a months-long process to develop specifications and conduct a successful competitive solicitation to choose among the private for-profit vendors of these services.
4. The requirement to have each impacted person have a choice of credit monitoring services to chose from would be logistically impractical since it would then require a public agency or business to contract with multiple credit monitoring (or credit freeze

services). We would suggest the public agency or business be allowed to select one provider based on best value.

5. The requirement to have each impacted person submit their decision to not subscribe to credit monitoring (or credit freeze services) or submit their choice of credit monitoring service in writing would be logistically impractical. What would the public agency or business have to do if the impacted person failed to select an option or submit a response in writing? We would suggest the person be allowed to enroll on-line with the contracted credit monitoring service and provide an enrollment code provided to them from the public agency or business that would then grant access to that service and charge costs to the public agency or business if required (Note: If credit agencies are required to provide free credit freeze services, there would be no charges/costs to the public agency or business, simply notification that a list of individuals are eligible for their services and requesting an enrollment code).
6. Enrolling in a credit monitoring service requires provision of a full complement of personal identifying information (PII), including the SSN. This should be performed directly between the individual and the credit monitoring vendor. It would be much less secure and more time-consuming to involve the entity that performed the notification into the mechanics of providing the individual's PII to the credit monitoring vendor and executing the enrollment. This should be accomplished on-line or via phone directly by the person and the credit service provider.

Thank you for the opportunity to testify on this matter.



NEIL AMBERCROMBIE  
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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Monday, February 14, 2011  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 678, H.D. 1, RELATING TO INFORMATION.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify regarding House Bill No. 678, H.D. 1, Relating to Information. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection ("OCP"), representing the Department.

House Bill No. 678, H.D. 1 proposes to require public or private entities responsible for a security breach to pay for access to credit reports for at least three years. The Department takes no position at this time but offers the following comments.

Under federal law, the Fair and Accurate Credit Transactions Act ("FACTA"), all Hawaii residents can receive free copies of their credit reports once a year from each of the three national credit reporting agencies -- Equifax, Experian, and Trans Union. This law provides consumers with an easier and timelier ability than ever before to determine that their credit is being fraudulently used.

To maximize the benefits of FACTA, consumer advocates advise consumers to order one report from one agency at a time, at four-month intervals. In effect, consumers now have the ability to monitor their credit reports for free three times per year. In addition to the free reports available each year, consumers are entitled to a free report from each of the agencies if they believe that they have become the victim of identity theft. To receive the free report in these circumstances, all that a victim needs to do is to contact each reporting agency directly and be prepared to provide a copy of a police report. Reviewing the credit reports enables consumers to detect fraudulent activity early and allows them to implement effective steps to limit damage resulting from potential identity theft.

The advances of FACTA notwithstanding, House Bill No. 678, H.D. 1 imposes an obligation on public and private entities responsible for the unauthorized release of personal information to bear the costs of providing a credit monitoring service for the potential victims. While the need for credit monitoring arises due to the action of those who release personal information, it is not clear that "credit monitoring services" are any more valuable to consumers than the tri-annual credit reports which are now available

free of charge as a consequence of FACTA.

Credit monitoring services offer their programs as "privacy protection" or "anti-ID-theft" services. They are not a deterrent to identity theft, but simply a potential early warning. The actual services provided vary widely. In general, the services promise to check a consumer's report regularly and alert them if suspicious activity is found. Many consumer groups feel that the monitoring services, which can cost up to \$200 per year, provide a service that most consumers can do for themselves for free or for considerably less than the relatively high subscription costs. If this bill becomes law, Hawaii businesses and government agencies may be placed in a position in which they will have to spend millions of dollars to comply with this measure. Consequently, imposing such a potentially significant financial burden on the affected entities may not be warranted at this time in view of the consumer-friendly changes made by FACTA.

Thank you for this opportunity to testify on House Bill No. 678, H.D. 1. I will be happy to answer any questions that the Committee members may have.

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PETER B. CARLISLE  
MAYOR



NOEL T. ONO  
DIRECTOR

February 14, 2011

The Honorable Robert N. Herkes, Chair  
and Members of the Committee  
on Consumer Protection & Commerce  
The House  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Herkes and Members:

Subject: House Bill No. 678, HD1, Relating to Information

The City & County of Honolulu, Department of Human Resources respectfully opposes House Bill No. 678, HD1.

Although well-intended, the City must oppose the measure as it contains provisions which impose additional financial requirements on government at a time when fiscal austerity is required. Specifically, the potential cost of the three-year subscription to a credit monitoring service mandated under Section 1 of House Bill No. 678, HD1, could be overwhelming.

In addition, public agencies are required to comply with the Hawaii Public Procurement Code when contracting for services such as those set forth in House Bill No. 678, HD1. As a result, it will be extremely difficult, if not impossible, for a public agency to provide each affected individual with a choice of not less than two credit reporting agencies within the required seven-day deadline.

We accordingly urge the Committee to file House Bill No. 678, HD1.

Thank you for the opportunity to testify.

Yours truly,

A handwritten signature in black ink, appearing to read "Noel T. Ono".

Noel T. Ono  
Director

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**TO:** Representative Robert N. Herkes  
Chair, Committee on Consumer Protection & Commerce  
*Via Email: CPCTestimony@Capitol.hawaii.gov*

**FROM:** Mihoko E. Ito

**DATE:** February 13, 2011

**RE:** **H.B. 678, H.D.1 – Relating to Information**  
**Hearing: Monday, February 14, 2011 at 2:00 p.m., Room 325**

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Dear Chair Herkes and Members of the Committee on Consumer Protection & Commerce:

I am Mihoko Ito, testifying on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 400 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 H.B. 678, H.D.1, which requires any government agency responsible for a security breach to pay for the costs of providing each person whose personal information was disclosed with, at a minimum, a three-year subscription to a nationwide consumer reporting agency's services. Specifically, CDIA supports the amendments made in H.B. 678, H.D.1, which clarify the definition of nationwide consumer reporting agencies, and limit the applicability of the credit monitoring requirements to government agencies.

Thank you very much for the opportunity to testify.