

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Consumer Data Industry Association**

DATE: January 22, 2014

TO: Representative Angus McKelvey
Chair, Committee on Consumer Protection & Commerce
Submitted Via CPNtestimony@capitol.hawaii.gov

RE: **H.B 712 – Relating to Credit Protection**
Hearing Date: Wednesday, January 22, 2014 at 2:00 pm
Conference Room: 325

Dear Chair McKelvey and Members of the Committee on Consumer Protection & 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 200 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. 712, but would suggest amendments.

Consumer reporting agencies work hard to prevent ID theft of all people, especially minors. Since credit bureaus do not knowingly create credit files for minors, hardly any minors will have existing credit files. If this bill were to pass as drafted, credit files would have to be created for minors, simply for the purpose of freezing them. CDIA members oppose this, because it could lead to more fraud issues.

Maryland was the first state to pass a law to specifically protect minors from credit fraud, and since then, 5 or 6 states have enacted similar laws. If the Committee is inclined to pass this bill, Maryland pioneered a path that we would encourage Hawaii to follow. Maryland's law creates a new term of art called a "record" and then requires the credit bureaus, on request of a parent or

guardian, to freeze the record to prevent the creation of credit files for minors (and people who are mentally diminished).

CDIA worked on the Maryland law, which was supported by other stakeholders involved, and believes that this law could work in Hawaii as well to protect minors and at the same time avoid the potential for more fraud by the creation of new credit files.

We have attached a draft of this concept for the Committee's consideration.

Thank you very much for the opportunity to testify.

A BILL FOR AN ACT

RELATING TO CREDIT PROTECTION

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

1 SECTION 1. Chapter 489P-2, Hawaii Revised Statutes is
2 amended to read as follows:

3 1. By adding new definitions to be appropriately inserted
4 and to read:

5 "Protected consumer" means an individual who is:

6 (1) Under the age of 16 years at the time a request
7 for the placement of a security freeze is made; or

8 (2) An incapacitated person or a protected person for
9 whom a guardian or conservator has been appointed in accordance
10 with Chapter 560, Hawaii Revised Statutes.

11 "Record" means a compilation of information that:

12 (1) Identifies a protected consumer;

13 (2) Is created by a consumer credit reporting agency
14 solely for the purpose of complying with this section; and

15 (3) May not be created or used to consider the
16 protected consumer's credit worthiness, credit standing, credit
17 capacity, character, general reputation, personal

1 characteristics, or mode of living for any purpose listed in 15
2 U.S.C. § 1681b.

3 "Representative" means a person who provides to a consumer
4 credit reporting agency sufficient proof of authority to act on
5 behalf of a protected consumer.

6 "Security freeze" means:

7 (1) If a consumer credit reporting agency does not
8 have a file pertaining to a protected consumer, a restriction
9 that:

10 (A) Is placed on the protected consumer's record
11 in accordance with this section; and

12 (B) Prohibits the consumer credit reporting
13 agency from releasing the protected consumer's
14 record except as provided in this section; or

15 (C) If a consumer credit reporting agency has a
16 file pertaining to the protected consumer, a
17 restriction that:

18 (i) Is placed on the protected consumer's
19 credit report in accordance with this
20 section; and

21 (ii) Prohibits the consumer credit reporting
22 agency from releasing the protected
23 consumer's credit report or any information

1 derived from the protected consumer's credit
2 report except as provided in this section.

3 "Sufficient proof of authority" means documentation that
4 shows a representative has authority to act on behalf of a
5 protected consumer, which includes:

6 (1) An order issued by a court of law;

7 (2) A lawfully executed and valid power of attorney;

8 and

9 (3) A written, notarized statement signed by a
10 representative that expressly describes the authority of the
11 representative to act on behalf of a protected consumer.

12 "Sufficient proof of identification" means information or
13 documentation that identifies a protected consumer or a
14 representative of a protected consumer, which includes:

15 (1) A Social Security number or a copy of a Social
16 Security card issued by the Social Security Administration;

17 (2) A certified or official copy of a birth
18 certificate issued by the entity authorized to issue the birth
19 certificate;

20 (3) A copy of a driver's license, an identification
21 card issued by the Department of Motor Vehicles, or any other
22 government-issued identification; or

1 (4) A copy of a bill, including a bill for telephone,
2 sewer, septic tank, water, electric, oil, or natural gas
3 services, that show a name and home address.

4
5 SECTION 2. Chapter 489P, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§ 489P- **Credit freeze for minors.** (a) A credit reporting
9 agency shall place a security freeze for a protected consumer
10 if:

11 (1) The credit reporting agency receives a request
12 from the protected consumer's representative for the placement
13 of the security freeze under this section; and

14 (2) The protected consumer's representative:

15 (A) Submits the request to the credit reporting
16 agency at the address or other point of contact
17 and in the manner specified by the credit
18 reporting agency;

19 (B) Provides to the consumer credit reporting
20 agency sufficient proof of identification of the
21 protected consumer and the representative;

22 (C) Provides to the consumer credit reporting
23 agency sufficient proof of authority to act on
24 behalf of the protected consumer; and

1 (D) Pays to the consumer credit reporting agency
2 a fee as provided in this section.

3 (b) If a consumer credit reporting agency does not have a
4 file pertaining to a protected consumer when the consumer credit
5 reporting agency receives a request under this section, the
6 consumer credit reporting agency shall create a record for the
7 protected consumer.

8 (c) Within 30 days after receiving a request that meets the
9 requirements of this section, a consumer credit reporting agency
10 shall place a security freeze for the protected consumer.

11 (d) Unless a security freeze for a protected consumer is
12 removed in accordance with this section, a consumer credit
13 reporting agency may not release the protected consumer's credit
14 report, any information derived from the protected consumer's
15 credit report, or any record created for the protected consumer.

16 (e) A security freeze for a protected consumer placed
17 under subsection (a) of this section shall remain in effect
18 until:

19 (1) The protected consumer or the protected consumer's
20 representative requests the consumer credit reporting agency to
21 remove the security freeze in accordance with subsection (g) of
22 this section; or

23 (2) The security freeze is removed in accordance with
24 subsection (f) of this section.

1 (f) If a protected consumer or a protected consumer's
2 representative wishes to remove a security freeze for the
3 protected consumer, the protected consumer or the protected
4 consumer's representative shall:

5 (1) Submit a request for the removal of the security
6 freeze to the consumer credit reporting agency at the address or
7 other point of contact and in the manner specified by the
8 consumer credit reporting agency;

9 (2) Provide to the consumer credit reporting agency:

10 (A) In the case of a request by the protected
11 consumer:

12 (i) Proof that the sufficient proof of
13 authority for the protected consumer's
14 representative to act on behalf of the
15 protected consumer is no longer valid; and

16 (ii) Sufficient proof of identification of
17 the protected consumer; or

18 (B) In the case of a request by the
19 representative of a protected consumer:

20 (i) Sufficient proof of identification of
21 the protected consumer and the
22 representative; and

23 (ii) Sufficient proof of authority to act on
24 behalf of the protected consumer; and

1 (3) Pay to the consumer credit reporting agency a fee
2 as provided in subsection (h) of this section.

3 (g) Within 30 days after receiving a request that meets the
4 requirements of subsection (f) of this section, the consumer
5 credit reporting agency shall remove the security freeze for the
6 protected consumer.

7 (h) Except as provided in paragraph (1) of this subsection,
8 a consumer credit reporting agency may not charge a fee for any
9 service performed under this section.

10 (1) A consumer credit reporting agency may charge a
11 reasonable fee, not exceeding \$5, for each placement or removal
12 of a security freeze for a protected consumer.

13 (2) Notwithstanding paragraph (1) of this subsection,
14 a consumer credit reporting agency may not charge any fee under
15 this section if:

16 (A) The protected consumer's representative:

17 (i) Has obtained a report of alleged
18 identity theft against the protected
19 consumer under §§708-839.6-708-839.8; and

20 (ii) Provides a copy of the report to the
21 consumer credit reporting agency; or

22 (B) A request for the placement or removal of a
23 security freeze is for a protected consumer who

1 is under the age of 16 years at the time of the
2 request; and

3 (ii) The consumer credit reporting agency
4 has a credit report pertaining to the
5 protected consumer.

6 (i) A consumer credit reporting agency may remove a
7 security freeze for a protected consumer or delete a record of a
8 protected consumer if the security freeze was placed or the
9 record was created based on a material misrepresentation of fact
10 by the protected consumer or the protected consumer's
11 representative.

12 (j) This section does not apply to the use of a protected
13 consumer's credit report or record by:

14 (1) A person administering a credit file monitoring
15 subscription service to which:

16 (A) The protected consumer has subscribed; or

17 (B) The representative of the protected consumer
18 has subscribed on behalf of the protected consumer;

19 (2) A person providing the protected consumer or the
20 protected consumer's representative with a copy of the protected
21 consumer's credit report on request of the protected consumer or
22 the protected consumer's representative;

23 (3) An entity or purpose listed in § 489P-3(1)(8) -
24 489P-3(1)(10), or § 489P-5 or

1 (4) A consumer reporting agency database or file that
2 consists entirely of consumer information concerning, and used
3 solely for:

4 (A) Criminal record information;

5 (B) Personal loss history information;

6 (C) Fraud prevention or detection;

7 (D) Employment screening; or

8 (E) Tenant screening.

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon approval.