

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2681

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2681 entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER CREDIT REPORTING
AGENCIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a consumer credit reporting agency to create a protective record for protected consumers, including individuals not older than eighteen years old and incapacitated persons, who do not have an existing credit report; and
- (2) Permit a representative of a protected consumer to place a security freeze on a protected consumer's credit report or protective record.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs and the Consumer Data Industry Association.

Your Committee finds that identity theft impacts millions of people in the country each year, with children remaining particularly vulnerable. According to the Identity Theft Assistance Center, one in forty families with children under the age of eighteen had at least one child whose personal information



was compromised. Your Committee further finds that identity theft involving minors is especially concerning, as it often goes unchecked and unnoticed for years. This measure safeguards protected consumers by offering these individuals the same protections as other consumers.

However, your Committee has heard the concerns that this measure requires credit files to be created for protected consumers only for the purpose of freezing such files. Stakeholders from the credit industry oppose this, as it could ultimately lead to additional fraud issues. Your Committee notes that Maryland was the first state in the country to pass a law specifically to protect minors from credit fraud, and since that time, a total of twenty-one states have enacted similar laws based on the Maryland model. The Maryland model establishes a new term of art, known as a "record", and then requires consumer credit reporting agencies, on request of a parent or guardian, to freeze the record of a protected consumer, which prevents the creation of credit files for minors and incapacitated persons.

Your Committee additionally finds that interested stakeholders and the Office of Consumer Protection have held discussions regarding whether to adopt a form of the Maryland model, and how to do so in a manner that is in the best interests of Hawaii consumers. Ultimately, the interested stakeholders and the Office of Consumer Protection were able to agree on the majority of the language under discussion. Amendments to this measure are therefore necessary to incorporate the consensus language.

Accordingly, your Committee has amended this measure by:

- (1) Adopting consensus language from industry stakeholders and the Office of Consumer Protection, which:
 - (A) Requires a consumer credit reporting agency to create a record for protected consumers, including minors under the age of sixteen and incapacitated persons, who do not have an existing credit file;
 - (B) Permits a representative of a protected consumer to request a security freeze on the protected consumer's credit report or any record created for the protected consumer;



- (C) Requires a consumer credit reporting agency to place a security freeze within thirty days after receiving a request;
 - (D) Prohibits the release of a protected consumer's credit report, information, or any record while the security freeze is in place;
 - (E) Specifies the length of time a security freeze for a protected consumer shall remain in effect and the requirements for requesting removal of a security freeze;
 - (F) Specifies that consumer credit reporting agencies may charge a reasonable fee not to exceed \$5 for each placement or removal of a security freeze, but specifying that no fee shall be charged if a protected consumer has been the victim of identity theft or if the protected consumer is under the age of sixteen and already has a credit report;
 - (G) Specifies that a consumer credit reporting agency may remove a security freeze or delete a record for a protected customer if the security freeze was placed or the record was created based on material misrepresentation of fact;
 - (H) Specifies exceptions to the security freeze and record requirements;
 - (I) Clarifies penalties for violations; and
 - (J) Inserts definitions;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
 - (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2681, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as S.B. No. 2681, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2681</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPH</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2-24-16</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
SLOM, Sam				/
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="font-size: 1.2em; font-family: cursive; margin-left: 50px;">Michelle N. Kidani</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.7em; margin-top: 5px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes