

SB 1186

RELATING TO PERSONAL INFORMATION.

Expands definition of "personal information" and establishes or amends the timeline by which a business or government agency must notify persons affected by a security breach of personal information. Specifies additional information required in notification following certain security breaches. Prohibits the use of email as a means of notification of a security breach if login credentials for email were compromised.

DAVID Y. IGE
GOVERNOR



KEONE KALI
CHIEF INFORMATION
OFFICER

**STATE OF HAWAII
OFFICE OF INFORMATION MANAGEMENT &
TECHNOLOGY**

P.O. BOX 119, HONOLULU, HAWAII 96810-0119
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**TESTIMONY OF
KEONE KALI, CHIEF INFORMATION OFFICER,
TO THE SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION
AND GOVERNMENT OPERATIONS**

Friday, February 6, 2015

10 a.m.

Conference Room 229

State Capitol

**S.B. No. 1186
RELATING TO PERSONAL INFORMATION**

Chairs Baker and Dela Cruz, Vice Chairs Taniguchi and Nishihara, and Committee Members:

I am Keone Kali, State Chief Information Officer (CIO), with comments on S.B. No. 1186.

I strongly urge the committees to amend subsection (6) of Section 1, by deleting the words "that when used" and replace said words with "and". This amendment clarifies that the definition of personal information includes the combination of all of the following: 1) an individual's first name or first initial and last name; 2) an online user name, email address, or social media user name or other identifier of a social media account; and 3) a password or security question and answer which would permit access to an online account.

Thank you for the opportunity to provide this testimony regarding S.B. No. 1186.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII

NO. 1 CAPITOL DISTRICT BUILDING

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To: Senate Committees on Government Operations
and on Commerce and Consumer Protection

From: Cheryl Kakazu Park, Director

Date: February 6, 2015, 10:00 a.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 1186
Relating to Personal Information

Thank you for the opportunity to submit testimony on this bill, which would considerably expand the definition of "personal information" whose disclosure due to a security breach must be reported, and would set timelines and other requirements for such notification. The Office of Information Practices ("OIP") does not take a position on this bill, but is testifying to note that it will not affect public access to records under the Uniform Information Practices Act ("UIPA"), chapter 92F, HRS.

This bill would not change an existing provision in the definition of "personal information" in section 487N-1, at bill page 2 lines 13-15, stating that "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records." Thus, the bill's addition of new categories of information to the definition of "personal information" will not affect public access to government records under the UIPA, because information available to the public under the UIPA is specifically excluded.

Senate Committees on Government Operations and on
Commerce and Consumer Protection

February 6, 2015

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Because this bill does not affect public access to records under the
UIPA, OIP takes no position on it.

Thank you for the opportunity to testify.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Government Operations

Senator Donovan M. Dela Cruz, Chair
Senator Clarence K. Nishihara, Vice Chair

Testimony to the Senate Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Friday, February 6, 2015, 10:00 am
State Capitol, Conference Room 229

Kevin G. Thornton
IT & Systems Department Head
The Judiciary, State of Hawaii

Bill No. and Title: Senate Bill No. 1186, Relating to Personal Information.

Purpose: Expands definition of "personal information" and establishes or amends the timeline by which a business or government agency must notify persons affected by a security breach of personal information. Specifies additional information required in notification following certain security breaches. Prohibits the use of email as a means of notification of a security breach if login credentials for email were compromised.

Judiciary's Position:

The Judiciary supports the intent of this bill as a means of protecting personal information. However, it is believed that section (6) does not provide a clear definition. The following amendment is requested.

(6) An online user name, email address, or social media user name or other identifier of a social media account in combination with a password or security question and answer, which would permit access to an online account.



Bill No. 1186 Relating to Personal Information
Committee on Government Operations and
Committee on Commerce and Consumer Protection
February 6, 2015
Page 2

The original section with edits is shown below:

(6) An online user name, email address, or social media user name or other identifier of a social media account ~~that when used~~ in combination with a password or security question and answer, which would permit access to an online account.

Thank you for the opportunity to testify on Senate Bill No. 1186.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
COMMENTING ON SENATE BILL 1186, RELATING TO PERSONAL INFORMATION

February 6, 2015

Via e mail: gvotestimony@capitolhawaii.gov

Honorable Senator Donovan M. Dela Cruz, Chair
Committee on Commerce & Consumer Protection
Honorable Senator Rosalyn M. Baker, Chair
Committee on Commerce and Consumer Protection
State Senate
Hawaii State Capitol, Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Dela Cruz, Chair Baker and Committee Members:

Thank you for the opportunity to comment on SB 1186, relating to Personal Information.

Our firm represents the American Council of Life Insurers ("ACLI"), a Washington, D.C., based trade association with more than 284 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred nineteen (219) ACLI member companies currently do business in the State of Hawaii; and they represent 92% of the life insurance premiums and 89% of the annuity considerations in this State.

Our comments relate to Section 1, at page 1, of SB 1186.

We suggest that existing paragraph (3) of Section 487N-1, Hawaii Revised Statutes, on page 1 (lines 11 to 13) of the bill, be amended to clarify its meaning, as set forth below:

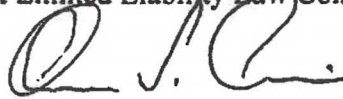
(3) Account number, or credit or debit card number, in combination with an access code, or password that would permit access to an individual's financial account[.];

Proposed new paragraph 5 to Section 487N-1, Hawaii Revised Statutes, on page 2 of the bill, at lines 1 to 7, should be deleted.

Our understanding is that access to the information specified in paragraph 5 is not likely to lead to identity theft or fraud and, thus, should not be considered "personal information" under Section 1 of the bill.

Again, thank you for the opportunity to comment on SB 1186, relating to Personal Information.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

A handwritten signature in black ink, appearing to read 'O. T. Chikamoto', with a stylized flourish at the end.

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

Date: February 5, 2015

To: Senator Donovan M. Dela Cruz
Chair, Committee on Government Operations

Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Submitted via GVOtestimony@capitol.hawaii.gov

Re: **S.B. 1186 - Relating to Personal Information**
Hearing Date: Friday, February 6, 2015 at 10:00 a.m.
Conference Room 229

Dear Chairs Dela Cruz and Baker and Members of the Committees,

We submit this testimony **expressing some concerns** about S.B. 1186 on behalf of the Consumer Data Industry Association ("CDIA"), an international trade association that represents about 150 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment screening, and tenant screening.

CDIA's concerns relate to page 3, lines 11-13, which reads **"Notification shall be made no later than forty-five days following the determination of the breach, unless provided otherwise in this section."**

Page 4, line 12, which reads **"provided [without reasonable delay] pursuant to subsection (a)".**

CDIA's concern is that **these changes to the present law would reduce flexibility in sending breach notices to consumers**. Certainly consumers want to be notified in a timely manner when breaches occur. But frequently breaches occur because of the efforts of sophisticated cyber criminals. Businesses and authorities dealing with these actions need time to determine the full extent of the breach, notify law enforcement and shut down the breach if it is ongoing. Shortening the time and thereby limiting flexibility may lead to sending notices while the investigation and remediation is still ongoing. This could result in the offenders learning that the breach has been discovered prematurely and thereby interrupt an ongoing criminal investigation. CDIA feels the present language works well and therefore respectfully recommends that these amendments not be made to the present law.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [GVO Testimony](#)
Cc: russell@ehawaii.gov
Subject: Submitted testimony for SB1186 on Feb 6, 2015 10:00AM
Date: Wednesday, February 04, 2015 3:51:46 PM
Attachments: [SB880 Testimony.pdf](#)

SB1186

Submitted on: 2/4/2015

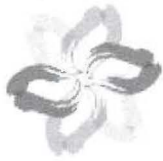
Testimony for GVO/CPN on Feb 6, 2015 10:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Russell	Hawaii Information Consortium, LLC	Oppose	No

Comments: Please feel free to contact me if more information is needed.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Statement of Russell Castagnaro before the

COMMITTEE ON GOVERNMENT OPERATIONS

Friday, February 6, 2015 @ 10:00 a.m @ 2:45 p.m. State Capitol, Conference Room 229

in consideration of **SB1186 RELATING TO PERSONAL INFORMATION**

Good afternoon Chairs, Vice Chairs, and Members of the Committees. My name is Russell Castagnaro. I am the President of the Hawaii Information Consortium, LLC (HIC) and General Manager for the ehawaii.gov program (The Hawaii Internet Portal) and the President of Hawaii Information Consortium, LLC and I am writing to suggest a change in **SB 1186 without the change I would oppose the bill.**

I commend the work by the Senate to protect individuals' personal data. As the General Manager of Hawaii's Internet Portal Program, ehawaii.gov my staff and I work hard to walk the line between public access and protecting individuals private information every day. Protecting personal information such as birth dates, social security numbers, credit card numbers, etc.. Requiring the notice of individuals after a data-breach is a vitally important safeguard and allows individuals to protect themselves from identity theft. I understand the problem very well.

There is one, relatively major aspect of this bill that causes major problems. It is:

(6) An online user name, email address, or social media user name or other identifier of a social media account that when used in combination with a password or security question and answer would permit access to an online account.

Most agencies leverage email addresses as a preferable method to communicate with constituents for receipts, notices, document delivery, etc.. There are a number of major problems with treating email addresses as protected Personally Identifiable Information:

1) Email cannot be protected once an email is sent. There is no way to keep an email address private. Email gateways are inherently open. All email messages have the email address and persons name in the header. Once an email is sent it is sent electronically from server to server. Each server accesses the email addresses.

2) Requiring the encryption of all email addresses in various department systems will incur a high cost to modify the systems. Many divisions will choose to simply eliminate the use of email and move back to paper notification. Currently the Department of Commerce and Consumer Affairs alone saves over \$300,000 per year in printing and postage by using email. This bill, as written, would render the notification and login features of legislature's website <http://captiol.hawaii.gov> un-useable and will require they be discontinued. The cost for the state overall would be enormous and environmentally unconscionable.

3) Email is the preferred way for most people to get access to systems and be notified. This eliminates that option.

I urge you to either strike point 6, (indicated above) from the bill and pass it or to not recommend the bill move forward.

Thank you for the opportunity to offer these comments and to work to improve transparency in government.

General Manager/ President
ehawaii.gov / Hawaii Information Consortium, LLC

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

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Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 6, 2015

Senator Donovan M. Dela Cruz, Chair
Senator Clarence K. Nishihara, Vice Chair
and members of the Senate Committee on Government Operations
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
and members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **SB 1186 (Personal Information)**
Hearing Date/Time: Friday, February 6, 2015, 10:00 a.m.

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **offers suggested revisions** to this Bill.

The purposes of this Bill are to: (a) expand the definition of "personal information" and establish or amend the timeline by which a business or government agency must notify persons affected by a security breach of personal information; (b) specify additional information required in notification following certain security breaches; and (c) prohibit the use of email as a means of notification of a security breach if login credentials for email were compromised.

We propose two revisions.

1. On page 2, beginning on line 8, we suggest the following change:

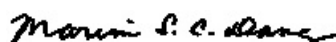
"(6) An online user name, email address, or social media user name or other identifier of a social media account , [that when used] in combination with a password or security question and answer **that** would permit access to an online account." (Delete bracketed/bold material; add italicized/bold material.)

Our proposal is consistent with California's law which reads: "A user name or email address, in combination with a password or security question and answer **that** would permit access to an online account." (emphasis added). This would make it clear that the breach of the account information must be in combination with the password.

2. Page 3, beginning on line 11, has the following new sentence: "Notification shall be made no later than forty-five days following the determination of the breach, unless provided otherwise in this section."

A fixed 45 day requirement is not practical. We prefer the flexible approach that is already present in the statute. One never knows what will happen with the investigations and how long it might take in a manual scenario to determine all the ones who were impacted. We suggest removing the new sentence and leaving the law as is. In the alternative, you might want to consider a longer time period, such as 90 days.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association