



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. **668**

May 25, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on May 25, 2006, the following bill was signed into law:

HB1871 HD1 SD2 CD1

A BILL FOR AN ACT RELATING TO
CONSUMER CREDIT REPORTING AGENCIES.
(ACT 138)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

ORIGINAL

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 1871
H.D. 1
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by adding
2 to title 26 a new chapter to be appropriately designated and to
3 read as follows:

4 "CHAPTER

5 CONSUMER CREDIT REPORTING AGENCIES

6 § -1 Purpose. The Federal Trade Commission recently
7 determined that between October 1998, and September 2003, more
8 than twenty-seven million three hundred Americans have been
9 victims of identity theft, resulting in billions of dollars of
10 losses to consumers. The purpose of this chapter is to protect
11 Hawaii consumers who are victims of identity theft by allowing
12 them to place a security freeze on their credit reports. This
13 security freeze will prohibit a consumer reporting agency from
14 releasing any information to unauthorized parties without the
15 consumer's express authorization and provide consumers more
16 control over who has access to their credit report. This
17 chapter aims to effectively prevent identity thieves from
18 continuing to secure credit in an identity theft victim's name.

1 § -2 Definitions. When used in this chapter, unless the
2 context otherwise requires:

3 "Consumer credit reporting agency" or "consumer reporting
4 agency" means any person who, for monetary fees or dues or on a
5 cooperative nonprofit basis, regularly engages in whole or in
6 part in the practice of assembling or evaluating consumer credit
7 information or other information on consumers for the purpose of
8 furnishing credit reports to third parties, but does not include
9 any governmental agency whose records are maintained primarily
10 for law enforcement or licensing purposes.

11 "Credit report" means any written, oral, or other
12 communication of any credit information by a consumer reporting
13 agency, as defined in the federal Fair Credit Reporting Act,
14 which operates or maintains a database of consumer credit
15 information bearing on a consumer's credit worthiness, credit
16 standing, or credit capacity.

17 "Identity theft" means the unauthorized use of another
18 person's identifying information to obtain credit, goods,
19 services, money, or property.

20 "Security freeze" means a notice placed in a credit report,
21 at the request of the consumer who is a victim of identity
22 theft.

1 § -3 Security freeze by consumer reporting agency. (a)

2 A consumer who has been the victim of identity theft may place a
3 security freeze on the consumer's credit report by making a
4 request in writing by certified mail to a consumer credit
5 reporting agency, at an address designated by the agency to
6 receive such requests, with a valid copy of a police report,
7 investigative report, or complaint the consumer has filed with a
8 law enforcement agency about unlawful use of the consumer's
9 personal information by another person. A consumer credit
10 reporting agency shall not charge a fee for placing or removing
11 a security freeze on a credit report. A security freeze shall
12 prohibit the consumer credit reporting agency from releasing the
13 consumer's credit report or any information from it without the
14 express authorization of the consumer. This subsection shall
15 not prevent a consumer reporting agency from advising a third
16 party that a security freeze is in effect with respect to the
17 consumer's credit report.

18 (b) A consumer reporting agency shall place a security
19 freeze on a consumer's credit report no later than five business
20 days after receiving a written request from the consumer.

21 (c) The consumer reporting agency shall send a written
22 confirmation of the security freeze to the consumer within ten

1 business days of placing the security freeze and shall provide
2 the consumer with a unique personal identification number or
3 password, other than the consumer's social security number, to
4 be used by the consumer when providing authorization for the
5 release of the consumer's credit report for a specific party,
6 parties, or period of time.

7 (d) If the consumer wishes to allow access to the
8 consumer's credit report for a specific party, parties, or
9 period of time while a freeze is in place, the consumer shall
10 contact the consumer reporting agency at a point of contact
11 designated by the agency using the procedures that may be
12 developed by the consumer reporting agency, request that the
13 freeze be temporarily lifted, and provide the following:

- 14 (1) Clear and proper identification;
15 (2) The unique personal identification number or password
16 provided by the consumer reporting agency; and
17 (3) Clear and proper information regarding the third
18 party, parties, or time period for which the report
19 shall be available to users of the credit report.

20 (e) A consumer reporting agency may develop procedures
21 involving the use of telephone, fax, the Internet, or other
22 electronic media to receive and process a request from a

1 consumer to temporarily lift a freeze on a credit report in an
2 expedited manner.

3 (f) A consumer reporting agency that receives a request
4 from a consumer to temporarily lift a freeze on a credit report
5 shall comply with the request no later than three business days
6 after receiving the request.

7 (g) A consumer reporting agency shall remove or
8 temporarily lift a freeze placed on a consumer's credit report
9 only in the following cases:

10 (1) Upon consumer request; or

11 (2) When the consumer's credit report was frozen due to a
12 material misrepresentation of fact by the consumer.

13 If a consumer reporting agency intends to remove a freeze upon a
14 consumer's credit report pursuant to this subsection, the
15 consumer reporting agency shall notify the consumer in writing
16 prior to removing the freeze on the consumer's credit report.

17 (h) If a third party requests access to a credit report on
18 which a security freeze is in effect and this request is in
19 connection with an application for credit or any other use and
20 the consumer does not allow the consumer's credit report to be
21 accessed by that specific party or for that period of time, the
22 third party may treat the application as incomplete.

1 (i) If a consumer requests a security freeze, the consumer
2 reporting agency shall disclose to the consumer the process of
3 placing and temporarily lifting a security freeze and the
4 process for allowing access to information from the consumer's
5 credit report for a specific party, parties, or period of time
6 while the security freeze is in place.

7 (j) A security freeze shall remain in place until the
8 consumer requests that the security freeze be removed. A
9 consumer reporting agency shall remove a security freeze within
10 three business days of receiving a request for removal at a
11 point of contact designated by the agency using procedures that
12 may be developed by the consumer reporting agency; provided that
13 the consumer shall provide the following:

14 (1) Clear and proper identification; and

15 (2) The unique personal identification number or password
16 provided by the consumer reporting agency pursuant to
17 subsection (c).

18 (k) A consumer reporting agency shall require clear and
19 proper identification of the person making a request to place or
20 remove a security freeze.

1 (1) The provisions of this section, including the security
2 freeze, do not apply to the use of a consumer's credit report by
3 the following:

4 (1) A person, or the person's subsidiary, affiliate,
5 agent, or assignee with which the consumer has or,
6 prior to assignment, had an account, contract, or
7 debtor-creditor relationship for the purposes of
8 reviewing the account or collecting the financial
9 obligation owing for the account, contract, or debt,
10 or extending credit to a consumer with a prior or
11 existing account, contract, or debtor-creditor
12 relationship. For purposes of this subsection,
13 "reviewing the account" includes activities related to
14 account maintenance, monitoring, credit line
15 increases, and account upgrades and enhancements;

16 (2) A subsidiary, affiliate, agent, assignee, or
17 prospective assignee of a person to whom access has
18 been granted for purposes of facilitating the
19 extension of credit or other permissible use;

20 (3) Any person acting pursuant to a court order, warrant,
21 or subpoena;

- 1 (4) A child support enforcement agency when investigating
- 2 a child support case pursuant to Title IV-D of the
- 3 Social Security Act (42 U.S.C. Sections 651 to 669b);
- 4 (5) The department of the attorney general. or county
- 5 prosecuting attorneys or their agents or assignees
- 6 acting to investigate medicaid fraud:
- 7 (6) The department of taxation, county taxing authorities,
- 8 or any of their agents or assignees, acting to
- 9 investigate or collect delinquent taxes or
- 10 assessments, including interest and penalties, unpaid
- 11 court orders, or to fulfill any of their other
- 12 statutory or charter responsibilities;
- 13 (7) The use of credit information for the purposes of
- 14 prescreening as provided by the federal Fair Credit
- 15 Reporting Act (15 U.S.C. Sections 1681 to 1681x);
- 16 (8) Any person for the sole purpose of providing a credit
- 17 file monitoring subscription service to which the
- 18 consumer has subscribed;
- 19 (9) A person for the sole purpose of providing a consumer
- 20 with a copy of the consumer's credit report upon the
- 21 consumer's request; and

1 (10) Any person or entity using a credit report in setting
2 or adjusting a rate, adjusting a claim, or
3 underwriting for insurance purposes.

4 § -4 **Consumer reporting agency duties if security freeze**
5 **in place.** If a security freeze is in place, a consumer
6 reporting agency shall not change any of the following official
7 information in a credit report without sending a written
8 confirmation of the change to the consumer within thirty days of
9 the change being posted to the consumer's file: name, date of
10 birth, social security number, and address. Written
11 confirmation shall not be required for technical modifications
12 of a consumer's official information, including name and street
13 abbreviations, complete spellings, or transposition of numbers
14 or letters. In the case of an address change, the written
15 confirmation shall be sent to both the new address and the
16 former address.

17 § -5 **Persons not required to place security freeze.** The
18 requirement under this chapter to place a security freeze on a
19 credit report shall not apply to:

20 (1) A check services or fraud prevention services company
21 that reports on incidents of fraud or issues
22 authorizations for the purpose of approving or

1 processing negotiable instruments, electronic fund
2 transfers, or similar methods of payment;

3 (2) A deposit account information service company that
4 issues reports regarding account closures due to
5 fraud, substantial overdrafts, ATM abuse, or similar
6 negative information regarding a consumer to inquiring
7 banks or other financial institutions for use only in
8 reviewing a consumer request for a deposit account at
9 the inquiring bank or financial institution;

10 (3) A consumer reporting agency that:

11 (A) Acts only to resell credit information by
12 assembling and merging information contained in a
13 database of one or more consumer reporting
14 agencies; and

15 (B) Does not maintain a permanent database of credit
16 information from which new credit reports are
17 produced.

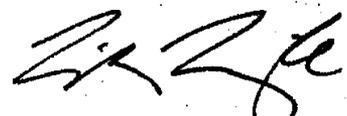
18 **§ -6 Violation, penalties.** (a) A person who violates
19 any provision of this chapter shall be subject to penalties of
20 not more than \$2,500 for each violation. The attorney general
21 or the executive director of the office of consumer protection
22 may bring an action pursuant to this section.

1 (b) In addition to any penalty provided for in subsection
2 (a), any person who violates any provision of this chapter shall
3 be liable to the injured party in an amount equal to the sum of
4 any actual damages sustained by the injured party as a result of
5 the violation. The court in any action brought under this
6 section may award reasonable attorneys' fees to the prevailing
7 party.

8 (c) The penalties provided in this section shall be
9 cumulative to the remedies or penalties available under all
10 other laws of the State."

11 SECTION 2. This Act shall take effect on January 1, 2007.

APPROVED this 25 day of MAY ,2006



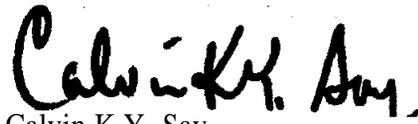
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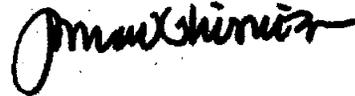
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii. Regular Session of 2006.



Calvin K.Y. Say
Speaker
House of Representatives

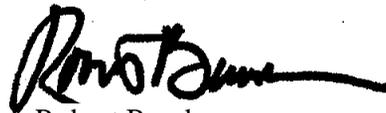


Patricia Mau-Shimizu
Chief Clerk
House of Representatives

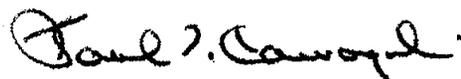
THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii. Regular Session of 2006.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate