H .B. NO. 3170

A BILL FOR AN ACT

RELATING TO SOCIAL SECURITY NUMBER.

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

SECTION 1. Section 501-151, Hawaii Revised Statutes, is amended to read as follows:

"**§501-151 Pending actions, judgments; recording of, notice.** No writ of entry, action for partition, or any action affecting the title to real property or the use and occupation thereof or the buildings thereon, and no judgment, nor any appeal or other proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a full memorandum thereof, containing also a reference to the number of certificate of title of the land affected is filed or recorded and registered. Except as otherwise provided, every judgment shall contain or have endorsed on it the [~~social security number,~~] State of Hawaii general excise taxpayer identification number, [~~or~~] the federal employer identification number, or only the last four digits of the social security number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social

security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recording of the judgment. This section does not apply to attachments, levies of execution, or to proceedings for the probate of wills, or for administration in a probate court; provided that in case notice of the pendency of the action has been duly registered it is sufficient to register the judgment in the action within sixty days after the rendition thereof.

As used in this chapter "judgment" includes an order or decree having the effect of a judgment.

Notice of the pendency of an action in a United States District Court, as well as a court of the State of Hawaii, may be recorded."

SECTION 2. Section 502-33, Hawaii Revised Statutes, is amended to read as follows:

"**§502-33 Identification of reference to registration of original.** The registrar shall not record any instrument requiring a reference to a prior recorded instrument, unless the same contains a reference to the book and page or document number of the registration of the original recorded instrument or a statement that the original instrument is unrecorded, as the case may be. Except as otherwise provided, every judgment shall contain or have endorsed on it the [~~social security number,~~] State of Hawaii general excise taxpayer identification number, [~~or~~] the federal employer identification number, or only the last four digits of the social security number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration of the judgment. Failure to disclose

or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon registration of the judgment. No amendment, continuation statement, termination statement, statement of assignment, or statement of release relating to security interests in goods which are or are to become fixtures shall be filed unless it complies with the requirements of part 5 of Article 9 of the Uniform Commercial Code. This section does not apply to any document mentioned herein executed prior to April 13, 1915."

SECTION 3. Section 504-1, Hawaii Revised Statutes, is amended to read as follows:

"**§504-1 Registration of federal judgments.** Judgments of United States courts may be registered, recorded, docketed, and indexed in the bureau of conveyances or with the assistant registrar of the land court in the same manner as judgments of the courts of the State. Except as otherwise provided, every judgment shall contain or have endorsed on it the [~~social security number,~~] State of Hawaii general excise taxpayer identification number, [~~or~~] the federal employer identification number, or only the last four digits of the social security

number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking the registration, recordation, docketing, or indexing of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration, recordation, docketing, or indexing of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon the registration, recordation, docketing, or indexing of the judgment."

SECTION 4. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

"**§636-3 Judgment, orders, decrees; lien when.** Any money judgment, order, or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a

clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it [~~the social security number,~~] the Hawaii tax identification number, [~~or~~] the federal employer identification number, or only the last four digits of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to disclose or disclosure of an incorrect social security number, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor's attorney of

record in the action shall, at the expense of the debtor, execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, section 501-102 and sections 501-241 to 501-248 shall govern."

SECTION 5. This Act shall not be applied to any judgments, orders, or decrees existing and filed or recorded in the bureau of conveyances or land court as of the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3170

Report Title:
Social Security Number

Description:
Stipulates that only the last four digits of an individual's social security number shall be listed on judgments, orders, or decrees endorsed and recorded in the Bureau of Conveyances or Land Court.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO SOCIAL SECURITY NUMBER.

PURPOSE: To clarify that when a judgment, order, or decree is to be endorsed and recorded in the Bureau of Conveyances (Bureau) or Land Court, by way of a social security number, only the last four digits of the social security number shall be used for persons against whom a judgment, order, or decree is rendered.

MEANS: Amend sections 501-151, 502-33, 504-1, and 636-3, Hawaii Revised Statutes.

JUSTIFICATION: In 2005, the Hawaii Anti-Phishing Task Force (Task Force) was established in the Department of the Attorney General to develop state policy on how best to prevent further occurrences of phishing and other forms of electronic commerce-based crimes in the State. By reviewing Hawaii's and other jurisdictions' activities, policies, directives, and laws relating to the prevention, monitoring, and enforcement of electronic commerce-based crimes, the Task Force determined that identity theft was a more pervasive and serious problem than was previously recognized in the State.

One area of particular concern to the Task Force was the number of Hawaii laws that require individuals to provide nonpublic personal and financial information that subsequently becomes embedded in publicly accessible records. The Task Force concluded that the best way to prevent exploitation of personal and financial information belonging to Hawaii residents was to provide greater protection for such information under Hawaii's public law records and identity theft prevention laws.

The Task Force identified two categories of public records that are potentially vulnerable to misuse, family court actions and judgments affecting title to land.

Current statutes require that each judgment, order, or decree of a state court or United States District Court should contain or have endorsed on it, the social security number, the Hawaii Tax Identification Number, or the Federal Employer Identification Number for persons, corporations, partnerships, or other entities against whom the judgment, order or decree is rendered, before such instrument may be recorded in the Bureau or Land Court. The intent of this disclosure is to identify the debtor in instances where similar names are involved. This disclosure has assisted individuals whose credit report reflects liens that are recorded under a similar name. Individuals have been able to amend and correct their reports by submitting an affidavit reflecting information that supports the discrepancy.

Although inspection of public records, including judgments, orders and decrees, is a public right and policy, there is nonetheless an obligation to protect an individual's private information. This bill would prevent access to an individual's full social security number on a judgment, order, or decree by requiring that only the last four digits of the social security number be used when the document is filed or recorded in the Bureau or Land Court.

Impact on the public: Lessens the likelihood of identity theft for individuals having to provide their social security number on a judgment, order, or decree.

Impact on the department and other agencies: None.

GENERAL FUND: None.

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OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 111.

OTHER AFFECTED AGENCIES: Judiciary/Land Court.

EFFECTIVE DATE: Upon approval.