

# Hawaii Laws that Apply to Retention & Disposition of Government Records

## Definition of “Record”

- §92F-3, *HRS*, defines “government record” and “personal record” as used in Chapter 92F, *Uniform Information Practices Act (Modified)*.
- Chapter 626, *HRS*, Title X, Rule 1001, defines “public record” as part of the *Rules of Evidence*.

### **Chapter 92F, HRS, Uniform Information Practices Act (Modified)**

Shortcut to §92F-3, *HRS*, General definitions in Chapter 92F, *HRS*, *Uniform Information Practices Act (Modified)*:

[http://www.capitol.hawaii.gov/hrscurrent/vol02\\_ch0046-0115/hrs0092f/hrs\\_0092f-0003.htm](http://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/hrs0092f/hrs_0092f-0003.htm)

*“Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form.*

*“Personal record” is “any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individual’s education, financial, medical, or employment history, or items that contain or make reference to the individual’s name, identifying particular assigned to the individual, such as a finger or voice print or a photograph.”*

### **Chapter 626, HRS, Hawaii Rules of Evidence: Title X**

Shortcut to Chapter 626, *HRS*, Title X, *Contents of Writings, Recordings, and Photographs*, Rule 1001:

[http://www.capitol.hawaii.gov/hrscurrent/vol13\\_ch0601-0675/hrs0626/hrs\\_0626-0001-1001.htm](http://www.capitol.hawaii.gov/hrscurrent/vol13_ch0601-0675/hrs0626/hrs_0626-0001-1001.htm)

*A “public record” means any writing, memorandum, entry, print, representation, report book or paper, map or plan, or combination thereof, that is in the custody of any department or agency of government.*

## Authority to determine disposition of Government Records

§94-3, *HRS (Hawaii Revised Statutes)*, authorizes the Comptroller to determine the disposition of State government records, except Judiciary and Legislative branch records.

### **Comptroller’s Authority to Determine Disposition of Records**

Shortcut to HRS 94-3, *Disposal of government records generally*:

[http://www.capitol.hawaii.gov/hrscurrent/vol02\\_ch0046-0115/hrs0094/hrs\\_0094-0003.htm](http://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/hrs0094/hrs_0094-0003.htm)

§602-5.5, *HRS*, authorizes the Supreme Court to determine the disposition of Judiciary records and determine the extent the Judiciary will create, accept, retain, or store in

electronic form any case, fiscal, and administrative records and convert written case, fiscal, and administrative records to electronic records.

### **Supreme Court's Authority to Determine Disposition of Judiciary Records**

Shortcut to HRS 602-5.5, *Judiciary records*:

[http://www.capitol.hawaii.gov/hrscurrent/vol13\\_ch0601-0675/hrs0602/hrs\\_0602-0005\\_0005.htm](http://www.capitol.hawaii.gov/hrscurrent/vol13_ch0601-0675/hrs0602/hrs_0602-0005_0005.htm)

§46-43, *HRS*, authorizes the county legislative body to determine the disposition of county records, including the use of electronic records.

### **County Legislative Body's Authority to Determine Disposition of County Records**

Shortcut to HRS 46-43, *County records*:

[http://www.capitol.hawaii.gov/hrscurrent/Vol02\\_Ch0046-0115/HRS0046/HRS\\_0046-0043.HTM](http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0043.HTM)

### Reproduction of Government Records

Chapter 92, *HRS, Public Agency Meetings and Records, Part III: Copies of records; Costs and Fees*, contains sections authorizing the reproduction of government records. *Act 177, Session Laws of Hawaii, Regular Session of 2005*, amended the following sections to include electronic records.

#### **Reproduction of Government Records**

Shortcut to §92-29, *HRS, Reproduction of government records*:

[http://www.capitol.hawaii.gov/hrscurrent/vol02\\_ch0046-0115/hrs0092/hrs\\_0092-0029.htm](http://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/hrs0092/hrs_0092-0029.htm)

Shortcut to §92-30, *HRS, Copy deemed original record*:

[http://www.capitol.hawaii.gov/hrscurrent/vol02\\_ch0046-0115/hrs0092/hrs\\_0092-0030.htm](http://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/hrs0092/hrs_0092-0030.htm)

Shortcut to §92-31, *HRS, Disposition of original*:

[http://www.capitol.hawaii.gov/hrscurrent/vol02\\_ch0046-0115/hrs0092/hrs\\_0092-0031.htm](http://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/hrs0092/hrs_0092-0031.htm)

### Uniform Electronic Transaction Act

Chapter 489E, *HRS, The Uniform Electronic Transaction Act*, states the Hawaii laws on the retention and use of government electronic transaction records.

This chapter defines “transaction” as “an action or set of actions occurring between two or more persons relating the conduct of business, commercial, or government affairs.”

#### **Uniform Electronic Transaction Act**

Chapter 489E, *HRS, Uniform Electronic Transaction Act* (L 2000, c 282, pt. of §1):

[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-.htm)

Shortcut to §489E-12, *HRS, Retention of electronic records; originals*:  
[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-0012.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-0012.htm)

Shortcut to §489E-13, *HRS, Admissibility in evidence*:  
[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-0013.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-0013.htm)

Shortcut to §489E-17, *HRS, Creation and retention of electronic records and conversion of written records*:  
[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-0017.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-0017.htm)

Shortcut to §489E-18, *HRS, Acceptance and distribution of electronic records by governmental agencies*:  
[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-0018.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-0018.htm)

Shortcut to §489E-19, *HRS, Interoperability*:  
[http://www.capitol.hawaii.gov/hrscurrent/vol11\\_ch0476-0490/hrs0489e/hrs\\_0489e-0019.htm](http://www.capitol.hawaii.gov/hrscurrent/vol11_ch0476-0490/hrs0489e/hrs_0489e-0019.htm)

Acts 135, 136 & 137, Session Laws of Hawaii (SLH), Regular Session of 2006: Laws regarding the Prevention of Identity Theft

Act 135, SLH 2006 (SB 2290 SD2, HD1, CD1), relating to Protection from Security Breaches, requires government and businesses that possess personal information of Hawaii residents and experience a security breach to notify people affected by the breach.

Act 136, SLH 2006 (SB 2292 SD2, HD1, CD1), relating to Destruction of Personal Information Records, requires businesses and government agencies that dispose of documents and other records containing personal information of Hawaii residents to destroy the records to protect against unauthorized access to or use of the information.

Both Act 135 and 136, SLH 2006, define “personal information” as:

*an individual’s first name or first initial and name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:*

- (1) *Social security number;*
- (2) *Driver’s license number or Hawaii identification card number; or*
- (3) *Account number, credit or debit card number, access code, or password that would permit access to an individual’s financial account.*

*“Personal information” shall not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.*

Acts 135 and 136, SLH 2006, take effect on January 1, 2007.

## **Protection from Security Breaches**

Shortcut to Act 135, SLH 2006

[http://www.capitol.hawaii.gov/sessioncurrent/bills/SB2290\\_cd1\\_.htm](http://www.capitol.hawaii.gov/sessioncurrent/bills/SB2290_cd1_.htm) and  
[http://www.capitol.hawaii.gov/sessioncurrent/bills/GM665\\_.PDF](http://www.capitol.hawaii.gov/sessioncurrent/bills/GM665_.PDF).

## **Destruction of Personal Information Records**

Shortcut to Act 136, SLH 2006

[http://www.capitol.hawaii.gov/sessioncurrent/bills/GM666\\_.PDF](http://www.capitol.hawaii.gov/sessioncurrent/bills/GM666_.PDF)

Act 137, SLH 2006 (SB 2293 SD2, HD1, CD1), relating to Social Security Number (SSN) Protection, prohibits businesses, subject to limited exceptions, from disclosing an individual's social security number to the general public, printing the SSN on identification card or in mailings to customers, requiring the transmission of a SSN to third parties; and selling or otherwise disclosing the SSN to third parties without written consent.

Act 137, SLH 2006, takes effect on July 1, 2007.

The Social Security Number (SSN) is one of the data elements of "personal information" as defined in Acts 135 and 136, SLH 2006.

## **Social Security Number Protection**

Shortcut to Act 137, SLH 2006

[http://www.capitol.hawaii.gov/sessioncurrent/bills/GM667\\_.PDF](http://www.capitol.hawaii.gov/sessioncurrent/bills/GM667_.PDF)

Prepared by DAGS Archives Division, Records Management Branch  
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