

STAND. COM. REP. NO. 724

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 1299  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred S.B. No. 1299 entitled:

"A BILL FOR AN ACT RELATING TO CHARTER TOUR OPERATORS,"

begs leave to report as follows:

The purpose and intent of this measure is to permit charter tour operators to maintain statutorily required client trust accounts in a federally insured financial institution located outside of Hawaii.

Your Committee received testimony in support of this measure from Vacations Hawaii. Your Committee received testimony in opposition to this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs.

Your Committee finds that charter tour operators are currently required to maintain a client trust account in a federally insured financial institution located within the State. However, according to testimony received by your Committee, there is only one financial institution in the State experienced and willing to maintain client trust accounts for charter tour operators. Furthermore, this financial institution has expressed concerns over its continuing ability to maintain a client trust account for a Hawaii charter tour operator. Although the affected charter tour operator and the financial institution have recently



agreed to continue their arrangement, a change in the management of the institution or a change in policy that results in a decision to discontinue serving the account will require the charter tour operator to immediately suspend its charter operations in Hawaii.

This measure attempts to address these concerns by permitting a charter tour operator to maintain a client trust account in a federally insured financial institution outside of Hawaii, subject to certain conditions, while also ensuring the charter tour operator remains subject to all other existing requirements for charter tour operators. Your Committee notes that charter tour operators are also subject to the federal Department of Transportation charter trust account regulations, which have very specific and stringent requirements for the maintenance of charter tour trust accounts.

However, your Committee has heard the testimony raised by the Regulated Industries Complaints Office, expressing concerns that this measure, as drafted, poses practical enforcement challenges that may complicate the job of protecting client trust funds. Your Committee understands these concerns and finds that amendments to this measure are necessary to include additional protections for client trust funds. These amendments will help ensure that charter tour operators will be able to continue to serve Hawaii residents, in the event that a Hawaii financial institution is unwilling or unable to service a client trust account, while also maintaining sufficient consumer protections.

Your Committee has amended this measure by:

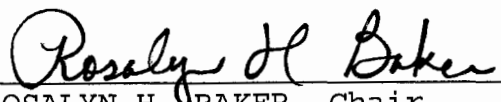
- (1) Clarifying the requirements a charter tour operator must meet prior to depositing sums in a client trust account maintained in a federally insured financial institution located outside the State, including:
  - (A) Requiring the charter tour operator to provide the Director of Commerce and Consumer Affairs with irrefutable evidence that no financial institution in the State can maintain the charter tour operator's client trust account;



- (B) Requiring the charter tour operator to file with the Department of Commerce and Consumer Affairs a notarized irrevocable agreement and authorization in writing;
  - (C) Requiring the charter tour operator to bear the cost to reproduce any records requested by the Department;
  - (D) Requiring the charter tour operator to bear the cost of any fees or expenses, including travel expenses, requested by the Department for purposes of an audit or to determine compliance; and
  - (E) Enabling the Department to contract with a private consultant to audit the records of any charter tour operator, and requiring the charter tour operator to bear the costs of any such audit;
- (2) Inserting an effective date of July 1, 2050; 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. 1299, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1299, 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



