



DAVID Y. IGE  
GOVERNOR  
DOUGLAS S. CHIN  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Wednesday, February 21, 2018  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1623, H.D. 1, RELATING TO FRANCHISE  
INVESTMENT LAW.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1623, H.D. 1, Relating to Franchise Investment Law. My name is Stephen Levins, and I am the Executive Director of the Department’s Office of Consumer Protection. The Department appreciates the intent of this bill, which is a companion to S.B. 2061, and offers comments.

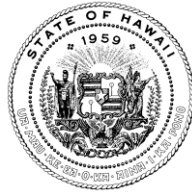
This bill adds a new section to Hawaii Revised Statutes (“HRS”) chapter 482E that: (1) requires a franchisee to disclose at its entrance or storefront that it is not participating in a promotion or discount offered by the franchise; and (2) prohibits a franchisor from limiting or placing conditions upon the franchisee in making the required disclosure. H.D. 1 amends the bill by changing its effective date to facilitate further discussion.

Consumers are often confused or misled by offers a franchise makes in national advertising campaigns. While an advertisement may state that an offer is not available in Hawaii, this disclosure is often in tiny print and therefore insufficient to inform the

consumer that the offer is not available in the State. If a promotion or discount is not available in Hawaii or at a particular location, this information should be disclosed to the consumer. The disclosure requirement in this bill will clarify to consumers whether an offer is available in Hawaii.

The Department also respectfully submits this new section is not appropriately placed in HRS chapter 482E, since this bill focuses on consumer protection, whereas the purpose of chapter 482E is to regulate the sale of franchises to minimize losses to the franchisee.

Thank you for the opportunity to testify on H.B. 1623, H.D. 1. I would be happy to answer any questions the Committee may have.



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TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify on H.B. 1623 H.D.1, Relating to Franchise Investment Law. My name is Ty Nohara, and I am the Commissioner of Securities for the Department’s Business Registration Division. The Department takes no position on this bill and offers comments. While we understand the Legislature’s intent in proposing this amendment, as well as its companion, S.B. 2061, we believe that it goes beyond the scope of what the franchise investment law was intended to do.

The Federal Trade Commission (“FTC”), which provides oversight on the sale of franchises at the federal level, has promulgated a Franchise Rule (“FTC Rule”). The FTC Rule is intended to prevent unfair and deceptive practices in the sale of franchises and is “primarily a pre-sale disclosure rule.” The FTC Rule does not purport to regulate the substantive terms of the franchisee/franchisor relationship, but requires material information to be disclosed by franchisors prior to sales so that a prospective franchisee can make an informed decision.

Hawaii Revised Statutes (“HRS”) chapter 482E mirrors the FTC Rule. HRS section 482E-1 specifies that the law is intended “to regulate the sale of franchises in the State to minimize losses to the franchisee in cases where the franchisor...has not provided full and complete information...” The intent of the FTC Rule and the Hawaii Franchise Investment Law is to assure that prospective purchasers of a franchise receive the information necessary to make an informed business decision without the need for States or the Federal Government to become involved in specifying terms of a franchise contract.

Thank you for the opportunity to testify on H.B. 1623 H.D.1. I would be happy to answer any questions the Committee may have.