



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Friday, February 10, 2023
9:40 a.m.
Videoconference

On the following measure:
S.B. 1130, Relating to Activity Desks

Chair Keohokalole and Members of the Committee:

My name is Sheena Choy, and I am the Executive Officer of the Department of Commerce and Consumer Affairs' (Department), Activity Desks Program. The Department offers comments on this bill.

The purposes of this bill are to: (1) make a principal of an activity desk liable for any financial deficiency when the activity desk's client trust account is insufficient to pay consumers or activity providers; and (2) to clarify that an activity desk, along with its principal and all persons with an ownership interest in the activity desk, shall be held liable for statutory violations and subsequent damages.

The Department questions the term "financial deficiency" in section 1 as the bill sets no parameters or guidelines to determine what is to be considered deficient or if being deficient necessitates the closure of the activity desk business.

The Department respectfully requests that "ownership interest" be defined as referenced in section 2. Specifically, clarification is needed as to what qualifies a party

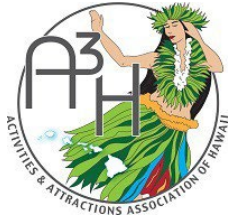
Testimony of DCCA

S.B. 1130

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as having “ownership interest” outside of being the designated principal. Furthermore, the Department notes that section 1 holds the principal alone as liable for any financial deficiency, but section 2 holds both the principal and “all persons with an ownership interest in the activity desk” liable for damages. The Department respectfully requests that both sections be consistent with one another.

Thank you for the opportunity to testify on this bill.



Activities & Attractions Association of Hawaii, Inc.
**Not for Profit 501c-6 ~ Preserve, Protect and
Unite**

Committee on Commerce and Consumer Protection

DATE: Friday, February 10, 2023
TIME: 9:40 AM
PLACE: Conference Room 229/Zoom

February 7, 2023

Aloha Honorable Chair Keohokalole Gabbard and Vice-Chair Fukunaga and
Members of the Committee on Commerce and Consumer Protection,

As the executive director of the Activities & Attractions Association of Hawaii, Inc.
(A3H), representing Hawaii's statewide in-destination experiences we urge you to
support SB1130.

Strongly Support SB1130

SB1130 strengthens HRS468M further protecting consumers and Activity Providers.

In 2020 and again in 2022 year, A3H organized Activity Providers to file suit against
licensed Activity Desks that stole funds from their trust accounts. HRS468M clearly
states the proper procedures. However, the DCCA does not have the band width to
police this process. It isn't until theft has happened that Action takes place.

We need this Law to clearly state that the Activity Desk owners are personally
responsible for the funds.

Mahalo,
Toni

Toni Marie Davis
Executive
Director

Activities & Attractions Association of
Hawaii, Inc. PO Box 598, Makawao, Hawaii
D: 808-871-7947 * M: 808-264-0000* F: 808-877-3104 Toll Free: 800-398-9698

SB-1130

Submitted on: 2/7/2023 2:32:40 PM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Zachary LaPrade	Testifying for Quicksilver Charters	Support	Remotely Via Zoom

Comments:

Aloha Honorable Chair Keohokalole Gabbard and Vice-Chair Fukunaga and Members of the Committee on Commerce and Consumer Protection,

My name is Zachary LaPrade and I am the owner of Quicksilver Charters, a charter boat company here in Hawaii. On behalf of our company, I am writing to strongly support SB1130, which strengthens HRS468M further protecting consumers and activity providers.

Like many other businesses in our industry, we have had firsthand experience with activity desks avoiding payment to us. In fact, it has happened twice in the last year alone. This not only puts our business in a difficult financial position, but it also negatively impacts the overall experience of our customers.

We believe that SB1130 will play a crucial role in protecting activity providers like ourselves by clearly stating that the activity desk owners are personally responsible for the funds in their trust accounts. This will give us the peace of mind that our hard-earned money is secure and will help to prevent similar situations from happening in the future.

As the executive director of the Activities & Attractions Association of Hawaii, Inc. (A3H) mentioned, the DCCA does not have the bandwidth to police this process and it often takes theft to occur before any action is taken. SB1130 will provide much-needed clarification and accountability in this area.

We urge you to support this bill and help protect the hardworking activity providers in Hawaii.

Mahalo, Zachary LaPrade Manager, Boss Frog's Dive and Surf

SB-1130

Submitted on: 2/7/2023 12:48:22 PM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Debbie Patton	Testifying for Captain Steve's Rafting	Support	Written Testimony Only

Comments:

We need this law to clearly state that the activity desk owners are personally responsible for the funds they collect on our behalf. So many have absconded with the money that they collected in advance of activities.

Mahalo!

SB-1130

Submitted on: 2/7/2023 2:01:33 PM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Lewis Upfold	Testifying for Haleakala Bike Co.	Support	Written Testimony Only

Comments:

Our company has been in business for over 25 years, and through that course we've had numerous activity agencies take advantage of the loose enforcement of the mandatory trust they are required to have. Our small business have loss tens of thousands of dollars on account of these businesses, and its time they are held accountable. We are currently in a fight with one of them, who refuses to pay, owns multiple businesses and homes himself, and seems to be unconcerned about the situation. He is robbing locals for 100s of thousands of dollars. It wouldn't surprise me if millions have been taken over the years. We need accountability and enforcement.

SB-1130

Submitted on: 2/7/2023 4:12:05 PM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
David Jung	Testifying for Lahaina Cruise Company	Support	Written Testimony Only

Comments:

My company has seen tens of thousands of dollars of client trust funds stolen by unscrupulous activity desk owners over and over again due to poor enforcement of existing laws. These laws must be dramatically strengthened to make it crystal clear that this is a criminal act. These dishonest activity agents are hurting local Hawaiian companies and the legislature must take action! Auwe !!!!



THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

AMENDED NOTICE OF HEARING

DATE: Friday, February 10, 2023
TIME: 9:40 AM
PLACE: Conference Room 229 & Videoconference
State Capitol
415 South Beretania Street

TESTIMONY OF OCEAN TOURISM COALITION IN SUPPORT OF SB1130

The Ocean Tourism Coalition (OTC) represents over 300 ocean tour operators statewide. OTC is writing in strong support of SB1130 (the "Bill"). The Bill seeks to amend sections 468M-2.5 and 468M-7 of the Hawaii Revised Statutes by clarifying the responsibilities of activity desks handling funds in client trust accounts. The Bill will provide greater accountability for violations of the chapter and ensure consumers and activity providers are protected from violations.

In the past few years, there have been numerous incidences where an activity desk stole funds from a client trust account. However, it is difficult and costly for activity providers to recoup these losses through the court system. Accordingly, the Bill will hold the principal liable for any financial deficiency in a client trust account. This helps ensure that consumers and activity partners are protected in the event of any shortfall in the account.

In addition, the Bill holds the activity desk and all persons with an ownership interest, liable for any damages resulting from a violation of the chapter. This provides a strong deterrent against violations and helps ensure that activity providers are fairly compensated for any damages incurred as a result of violations.

In conclusion, this Bill helps ensure that activity desks operate in a responsible and transparent manner, with clear lines of accountability and protection for consumers and activity providers. OTC believes that the Bill will have a positive impact on the industry and strongly supports its passage.

Sincerely,

Denver Coon
OTC
Director

SB-1130

Submitted on: 2/8/2023 8:45:22 AM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Erik Stein	Testifying for Extended Horizons	Support	Written Testimony Only

Comments:

As a business owner that has had over 10 thousand dollars stolen from me by activity desks over the years I support this bill. Too often the desk owners and even corporate owners just declare bankruptcy , leaving me with nothing after having provided services and paid taxes on this money. Since enforcement has NEVER worked in these after the fact thefts I am strongly in support of this bill to protect activity providers and provide recourse to funds that were held in trust.

SB-1130

Submitted on: 2/7/2023 12:40:08 PM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Howeth	Individual	Support	Written Testimony Only

Comments:

I strongly support SB1130.

As the owner of a Ocean Recreation Company on Maui, I deal with activity desks that book our tours. We need help in holding the activity desks accountable for safeguarding the funds they collect on our behalf, and to hold the owners of the activity desks responsible for those funds to be paid to the activity provider.

SB-1130

Submitted on: 2/8/2023 10:07:13 AM

Testimony for CPN on 2/10/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
John Gaskins	Individual	Support	Written Testimony Only

Comments:

Aloha Honorable Chari Keohokalole Gabbard and Vice-Chari Fkuunaga and members of the Committee on Commerce and Consumer Protection,

As Business Development Director of PacWhale Eco-Adventures, we strongly urge you to support SB1130. It strengthens HRS468M further protecting consumers and Activity providers. As the largest eco-tour ocean operator on the island, we have been victims of numerous licensed Activity Desks that stole funds from their trust accounts and left our organization with large unpaid balances for services rendered to their customers that have required expensive legal action in order to pursue some type of judgement or settlement.

HRS468M clearly states the proper procedures, however, the DCCA does not have the bandwidth to police this process and it isn't until after the theft has happened, that action takes place. We need this law to clearly state that the Activity Desk owners are personally responsible for the funds.

Mahalo for your time,

John Gaskins

Business Development Director

PacWhale Eco-Adventures: 300 Ma'alaea Rd., Suite 211, Wailuku, HI 96793 , 808-249-8811



HAWAI'I LODGING & TOURISM
ASSOCIATION

LATE

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Senate Committee on Commerce & Consumer Protection
Senate Bill 1130
February 10, 2023

Chair Keohokalole and members of the Committee, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest and oldest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—**supports Senate Bill 1130** as it would add necessary language to existing state law, making clear activity desk principals are solely responsible for any financial deficiency that results in the activity desk being unable to pay consumers or activity partners.

This measure would make activity desk principals' liability unequivocally clear while offering both consumers and activity providers.

For this reason, HLTA supports Senate Bill 1130.

Mahalo for the opportunity to provide this testimony.



Maui Hotel & Lodging
ASSOCIATION

LATE

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association

Committee on Commerce and Consumer Protection

Senate Bill 1130: Relating to Activity Desks

February 10, 2023, 9:40 am

Conference Room 229

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry for Maui County. We represent over 180 property and allied business members, and 22,000 employees. **MHLA supports Senate Bill 1130**, which makes a principal of an activity desk liable for any financial deficiency when the activity desk's client trust account is insufficient to pay consumers or activity providers. Clarifies that an activity desk, along with its principal and all persons with an ownership interest in the activity desk, shall be held liable for statutory violations and subsequent damages.

SB1130 further strengthens HRS468M protecting consumers and Activity Providers.

In 2020 and again in 2022, there were lawsuits against licensed Activity Desks that stole funds from their trust accounts. HRS468M clearly states the proper procedures. However, the DCCA does not have the capabilities to effectively monitor and enforce this process. We need this Law to clearly state that the Activity Desk owners are personally responsible for the funds.

For the reasons stated above **MHLA is in support of SB1130**.

Thank you for the opportunity to provide this testimony.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229
FRIDAY, FEBRUARY 10, 2023 AT 9:40 A.M.**

To The Honorable Senator Jarrett Keohokalole, Chair
The Honorable Senator Carol Fukunaga, Vice Chair
Members of the committee on Commerce and Consumer Protection

SUPPORTING SB1130 RELATING TO THE ACTIVITY DESKS

The Maui Chamber of Commerce **supports SB1130** which makes a principal of an activity desk liable for any financial deficiency when the activity desk's client trust account is insufficient to pay consumers or activity providers, and clarifies that an activity desk, along with its principal and all persons with an ownership interest in the activity desk, shall be held liable for statutory violations and subsequent damages.

The Chamber notes that in 2020 and again in 2022, the Activities & Attractions Association of Hawaii, Inc. organized activity providers to file suit against licensed activity desks that stole funds from their trust accounts. This measure protects consumers and activity providers by strengthening HRS 468M further.

For this reason, we **support SB1130** and request it be passed.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.