



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Office of Consumer Protection

Before the
Senate Committee on Judiciary
Wednesday, February 28, 2024
10:00 a.m.
Via Videoconference
Conference Room 016

On the following measure:
S.B. 2239, S.D. 1 RELATING TO CONSUMER PROTECTION

Chair Rhoads and Members of the Committee:

My name is Mana Moriarty, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports the intent of this bill, but prefers a comprehensive ban proposed in S.B. 2020, S.D. 1.

The purposes of this bill are to: 1) Prohibit any person from advertising, displaying, or offering a price for a transient accommodation or resort time share vacation interest, plan, or unit that does not include all taxes and fees imposed by a government entity at the time of purchase; 2) Require a person to clearly and conspicuously display in each advertisement for a transient accommodation or resort time share vacation interest, plan, or unit a rate or price that includes all taxes and fees imposed by a government entity; and 3) Require any taxes and fees that are displayed

as a percentage of the cost on a booking transaction also be displayed as a dollar amount at the time of purchase.

While the Department appreciates the intent of this measure to require transient accommodations and timeshares to disclose government fees in their advertisement and booking platforms, mandatory non-governmental hidden fees are a problem confronting many consumers across numerous sectors of the economy, including online shopping, fitness centers, financial services, rental housing, payday lending, motor vehicle rentals, restaurants, and event ticketing. This measure misses a swath of consumers who deserve protection from hidden fees by focusing only on government fees and consumers who stay in transient accommodations and resort timeshares.

Disclosing fees across all industries upfront, as S.B. 2020, S.D. 1 proposes to do, will do more to protect consumers from deceptive hidden fees. The approach in S.B. 2020, S.D. 1 is to make it a deceptive trade practice for anyone who advertises, displays, or offers a price for goods or services that does not include all mandatory fees or charges in any industry. Consumers would make better decisions in the marketplace while being protected from bait-and-switch pricing when the total cost of goods or services does not omit mandatory fees from advertised prices.

Thank you for the opportunity to testify on this bill.



TESTIMONY OF DANIEL NĀHO'OPI'I
INTERIM PRESIDENT & CEO, HAWAII TOURISM AUTHORITY
BEFORE THE SENATE COMMITTEE ON JUDICIARY
Wednesday, February 28, 2024 10:00 a.m.
In consideration of
SB 2239 SD 1
RELATING TO CONSUMER PROTECTION

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

The Hawai'i Tourism Authority (HTA) offers the following comments for consideration on this measure which prohibits advertising, displaying, or offering a price for a transient accommodation that does not include all taxes and fees imposed by a government entity at the time of purchase.

In the most recently available Visitor Satisfaction and Activity survey – fielded in the third quarter of 2023 – visitors who said they are unlikely to return to Hawai'i identified cost and value as some of their top reasons. We generally believe that transparency is important in this area.

We stand ready to assist with outreach to the visitor industry should this measure be enacted.

Mahalo for the opportunity to offer these comments on this measure.



February 27, 2024

The Honorable Karl Rhoads
Chair
Senate Committee on Judiciary
Hawai'i State Capitol, Room 228
415 S Beretania St.,
Honolulu, HI

RE: Oppose SB 2239: Relating To Deceptive Trade Practices.

Dear Senator Rhoads and members of the Committee:

On behalf of the Chamber of Progress, a tech industry coalition promoting technology's progressive future, I write to **oppose SB 2239 based on its current drafting**. While we support efforts to eliminate deceptive fees and manipulative pricing in certain industries, SB 2239 risks penalizing online marketplaces for the hotel industry's lack of transparency.

We agree that deceptive fees in industries like hotels, ticketing, and airlines, should be addressed. Inconsistent prices and a lack of transparency make it more difficult for consumers to do "apples to apples" comparisons between competing services and hinder fair competition.

Unfortunately, the bill as drafted doesn't reflect the complexity of some three-sided online marketplaces, like online lodging rental platforms, that have a fundamentally different structure. In three-sided online marketplaces - including online lodging rental and home sharing platforms - independent sellers offer and set the prices for their goods and services. The market operator connects the independent sellers with customers, and may offer additional services like order processing, safety checks, and identity verification. In these marketplaces, the sellers set the prices posted on the marketplace platform.

In the transient accommodation industry, many hotels and resorts advertise available rooms on online lodging rental or home sharing platforms. Hotels and resorts, like homeowners renting out their homes, are responsible for the list price and any applicable fees. Including hotel and resort rooms on the same platforms as short term home rentals enables consumers to compare all of their options and reduces search time.

However, under SB 2239, the platforms could be held liable if the hotel or resort failed to incorporate all resort fees or applicable taxes into the price they post on the platform. This concern could be addressed by including a safe-harbor provision for three-sided marketplaces and platforms that do not independently set prices for transient accommodation.

We support efforts to crack down on industries that deceive customers and use manipulative pricing tactics. However, marketplace platforms should not be penalized for the hotel industry's lack of transparency. We encourage you to amend the bill to address complexities of different marketplaces. Unless these differences can be addressed during the drafting stage, we urge you to **oppose SB 2239**.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Singleton". The signature is fluid and cursive, with a large initial "R" and a stylized "S".

Robert Singleton,
Director of State & Local Government Relations, Western US

STACEY C.G. HEE, ESQ.

PHONE - (808) 808-529-7300
E-MAIL - HEE@M4LAW.COM

February 27, 2024

Senator Karl Rhoads, Chair
Senator Michael Gabbard, Vice Chair
Senate Committee on Judiciary

Re: SB2239, S.D.1 – Relating to Consumer Protection
Decision Making on February 28, 2024, at 10:00 AM
Conference Room 016 & Videoconference

Dear Chair, Vice Chair, and Members of the Committee:

Thank you for allowing us to submit our written testimony on SB2239. My name is Stacey Hee and I am submitting this letter as legislative counsel for ARDA Hawaii.

We understand that this measure is intended to require that the rental price advertised for transient accommodations and time share units include all governmental taxes and fees on the rent that must be paid by the renter in addition to the rent itself. We would like to recommend the following technical amendments for purposes of clarity and have attached a proposed S.D.2 containing these changes for your reference and convenience. The amendments:

1. Clarify that the statute applies to the rental charges for occupancy of transient accommodations and time share units.
2. Delete all references to rental of an entire time share plan or individual time share interest as only the time share units, not the time share plan or interests, can be occupied by renters.

"§481B- Transient accommodations;
booking transactions; total price;
disclosures; taxes; government-related
fees. (a) No person shall advertise,

display, or offer a price for rental of a transient accommodation or resort time share vacation [interest, plan, or] unit that does not include all taxes and fees imposed by a government entity to be charged to the renter [at the time of purchase].

(b) A person shall clearly and conspicuously display in each advertisement for rental of a transient accommodation or resort time share vacation [interest, plan, or] unit, including online advertisements, a price that includes all taxes and fees imposed by a government entity and to be charged to the renter.

(c) Any taxes and fees on a booking transaction that are displayed as a percentage of the cost at the time of purchase shall also be displayed as a dollar amount.

(d) For the purposes of this section:

"Booking transaction" means any transaction in which there is a charge to a consumer by a person for rental of any transient accommodation or resort time share vacation [interest, plan, or] unit.

Senator Karl Rhoads, Chair
Senator Michael Gabbard, Vice Chair
Senate Committee on Judiciary
February 27, 2024
Page 3

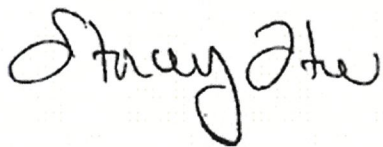
"Government entity" has the same meaning
as defined in section 137-1.

"R[~~esort time share vacation interest~~,
~~resort time share vacation plan~~, "r]esort
time share vacation unit", and "transient
accommodations" have the same meanings as
defined in section 237D-1."

We would be happy to answer any questions that you may have with respect to the foregoing and appreciate your consideration.

Respectfully submitted,

McCORRISTON MILLER MUKAI MacKINNON LLP

A handwritten signature in black ink, appearing to read "Stacey Hee". The signature is written in a cursive, flowing style.

Stacey C. G. Hee

THE SENATE

S.B. NO.

2239

S.D.1

Proposed

S.D.2 -

ARDA Draft

THIRTY-SECOND LEGISLATURE, 2024
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

SECTION 1. The legislature finds that booking agencies often do not include government-related fees and taxes in their advertised rates and prices. Because fees and taxes are usually added as a surcharge after a consumer initiates a purchase, consumers often are misled by advertised prices and find themselves paying a higher price than they had originally intended. While government-related taxes and fees may be itemized during the purchase process, the legislature believes that consumers have a right to make informed purchases regarding the total price to be paid before a transaction commences.

The legislature notes that there is national support to reduce and eliminate mandatory fees that often hide the full price of a good or service and surprise fees that consumers learn about after purchase. For example, the federal Junk Fee Prevention Act, S. 916. 118th Cong. (2023) was introduced to

curb and eliminate excessive, hidden, and unnecessary fees that are unexpectedly imposed on consumers, and California recently passed the Consumers Legal Remedies Act, 2023, which, in part, would make it unlawful to advertise, display, or offer a price for a good or service that does not include all mandatory fees or charges other than taxes or fees imposed by a government on the transaction.

Accordingly, the purpose of this Act is to:

(1) Prohibit any person from advertising, displaying, or offering a price for a transient accommodation or resort time share vacation [~~interest, plan, or~~]unit that does not include all taxes and fees on the rent imposed by a government entity that the renter must pay [~~at the time of purchase~~];

(2) Require a person to clearly and conspicuously display in each advertisement for a transient accommodation or resort time share vacation [~~interest, plan, or~~]unit a price that includes all taxes and fees on the rent imposed by a government entity and that the renter must pay; and

(3) Require any taxes and fees that are displayed as a percentage of the cost on a booking transaction also be displayed as a dollar amount at the time of purchase.

SECTION 2. Chapter 481B, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§481B- ~~Transient accommodations;~~
booking transactions; total price;
disclosures; taxes; government-related
fees. (a) No person shall advertise,
display, or offer a price for rental of a
transient accommodation or resort time share
vacation [~~interest, plan, or~~] unit that does

not include all taxes and fees imposed by a government entity to be charged to the renter [at the time of purchase].

(b) A person shall clearly and conspicuously display in each advertisement for rental of a transient accommodation or resort time share vacation [interest, plan, or] unit, including online advertisements, a price that includes all taxes and fees imposed by a government entity and to be charged to the renter.

(c) Any taxes and fees on a booking transaction that are displayed as a percentage of the cost at the time of purchase shall also be displayed as a dollar amount.

(d) For the purposes of this section:

"Booking transaction" means any transaction in which there is a charge to a consumer by a person for rental of any transient accommodation or resort time share vacation [interest, plan, or] unit.

"Government entity" has the same meaning as defined in section 137-1.

"R[esort time share vacation interest], "resort time share vacation plan", "r]esort time share vacation unit", and "transient

accommodations" have the same meanings as defined in section 237D-1."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2040.

INTRODUCED BY: _____

Report Title:

Consumer Protection; Transient Accommodations; Booking Transactions; Disclosures; Taxes; Government-Related Fees; Unfair and Deceptive Practices

Description:

Prohibits any person from advertising, displaying, or offering a price for the rental of a transient accommodation or resort time share vacation [~~interest, plan, or~~] unit that does not include all taxes and fees imposed by a government entity at the time of purchase. Requires a person to clearly and conspicuously display in each advertisement for the rental of a transient accommodation or resort time share vacation [~~interest, plan, or~~] unit a rate or price that includes all taxes and fees imposed by a government entity. Requires any taxes and fees that are displayed as a percentage of the cost on a booking transaction also be displayed as a dollar amount at the time of purchase. Takes effect 7/1/2040.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Southwest | Telephone 505.402.5738
915 L Street, Suite 1270, Sacramento, CA 95814
www.technet.org | @TechNetSW

February 26, 2024

Senator Karl Rhoads
Chair, Committee on Commerce and Consumer Protection
Hawai'i State Capitol, Room 228
Honolulu, HI

RE: SB 2239SD1 (Rhoads) – Unfair and Deceptive Practices - Oppose

Dear Chair Rhoads and Members of the Committee,

TechNet submits this letter in respectful opposition to SB 2239. Technology-enabled platforms have transformed the way that goods and services can be accessed, offering consumers the ability to complete transactions online and on-demand. Without amendments that address the unique nature of these platforms and the services they provide, the bill would undermine Hawaii's commitment to the innovation economy.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

TechNet fully supports the spirit of the bill to encourage price transparency when shopping for goods and services. We are concerned about the breadth of government taxes and fees the bill requires platforms to disclose.

SB 2239 greatly expands the requirements for platforms to display and include all taxes and fees in the total price they advertise, offer, or display before a user books a rental. This could apply broadly to taxes and fees that *platforms* don't collect. Platforms collect some occupancy taxes and fees, whereas others are the obligation of the hosts themselves, with requirements differing between jurisdiction. This bill would impose a one size fits all approach to a complex and location specific determination.

Furthermore, this is likely to be confusing for consumers rather than helpful. If a platform does not have an obligation to collect taxes and fees, but the law requires the platform to display and include taxes and fees, consumers will view a price

(inclusive of taxes and fees) that is markedly different from the price they pay on the platform (exclusive of taxes and fees).

Therefore, we suggest limiting the bill to apply to only taxes and fees which are collected by the platform for accommodations or resort timeshares located in Hawaii to the public in Hawaii.

Thank you for your consideration. If you have any questions regarding our position please contact Dylan Hoffman, Executive Director, at dhoffman@technet.org or 505-402-5738.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dylan Hoffman', written in a cursive style with a long horizontal flourish extending to the right.

Dylan Hoffman
Executive Director for California and the Southwest
TechNet



February 27, 2024

Senator Karl Rhoads
Chair of the Senate Committee on Judiciary

Re: SB 2239, Relating to Consumer Protection

Dear Chair Rhoads and Members of the Senate Committee on Judiciary:

Thank you for the opportunity to comment on SB 2239 and for your efforts to provide price transparency to Hawai'i consumers.

The Expedia Group ("Expedia") family of brands is proud to play a key role in Hawai'i's state and local economies by helping travelers to research, plan, and book a wide range of lodging, airline, car rental, and destination experiences across the state. As a leader in the online travel marketplace, we fully support efforts to protect consumers by giving consumers an up-front, complete understanding of the total cost of their bookings. Price transparency is especially important in the travel sector, which is why when consumers search for hotels on Expedia's platform, our sites show them results that include the total price they would pay for the stay, including taxes and fees that may apply, throughout the booking process.

While Expedia Group does not oppose SB 2239, we strongly encourage you to defer action on this bill in light of active Federal rulemaking and legislation in this space. The travel marketplace is inherently interstate, and neither consumers nor travel businesses are served by a confusing patchwork of state rules that establish different requirements and outcomes depending on a traveler's state of origin or destination. As a result, Expedia supports efforts currently underway at the Federal Trade Commission ("FTC") and Congress to establish a consistent and comprehensive standard for advertised prices across the United States.

Should SB 2239 continue to advance in Hawai'i, we respectfully urge you to sunset its provisions in the event that either the FTC or Congress establishes a national standard for advertised prices. Hawai'i's travelers—and travelers considering Hawai'i as a destination—are best served by a single standard that allows for consistent, clear expectations for advertised prices.



Finally, consumers search for travel services across a diverse travel ecosystem including direct booking channels (e.g., a hotel or airline’s own website), Online Travel Agencies or “OTAs” like Expedia, and metasearch products like search engines and other aggregators. **Thank you for drafting SB 2239 to ensure standards for price inclusivity should apply to anyone who advertises a price for lodging and other travel services to ensure the consumer protection applies regardless of the point of sale or search.**

Again, we are grateful for your important work to establish transparent, consistent, and equitable marketplace pricing for Hawai’i travelers and Hawai’i travel businesses alike, and we welcome the opportunity to discuss these issues with you further.

Please do not hesitate to contact me if there is any additional information we can provide.

Mahalo,

Mackenzie Chase
Regional Manager, Hawai’i
Expedia Group



SB-2239-SD-1

Submitted on: 2/20/2024 7:35:31 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Kidd	Individual	Support	Written Testimony Only

Comments:

I support this measure, full price should be displayed at all times. No more hidden fees!