



**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**

**Office of Consumer Protection**

**Before the**  
**Senate Committee on Commerce and Consumer Protection**  
**and**  
**Senate Committee on Energy, Economic Development, and Tourism**

**Tuesday, February 13, 2024**  
**9:00 a.m.**

**Via Videoconference**  
**Conference Room 229**

**On the following measure:**  
**S.B. 2993, RELATING TO CONSUMER PROTECTION**

Chair Keohokalole, Chair DeCoite, and Members of the Committees:

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 would prefer a comprehensive ban on undisclosed non-governmental mandatory fees. The Department offers the following comments.

The purposes of this bill are to: 1) Prohibit any operator, transient accommodations broker, or person from offering, listing, advertising, and displaying a rate that does not include all resort fees; 2) Require all operators, transient

accommodations brokers, and persons to include all taxes and fees imposed by a government on a transient accommodation; and 3) Establish penalties.

While the Department appreciates the intent of this measure to require all operators, transient accommodations brokers, and persons to disclose all government and resort fees in their advertisement and booking platforms, non-disclosure of mandatory non-governmental 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 consumers who stay in transient accommodations.

Disclosing fees across all industries upfront, as S.B. 2020 proposes to do, will do more to protect consumers from deceptive hidden fees. The approach in S.B. 2020 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 COMMITTEES ON COMMERCE AND CONSUMER PROTECTION  
AND ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Tuesday, February 13, 2024 9:00 a.m.

In consideration of

**SB 2993**

**RELATING TO CONSUMER PROTECTION**

Aloha Chairs Keohokalole and DeCoite, Vice Chairs Fukunaga and Wakai, and Members of the Committees,

The Hawai'i Tourism Authority (HTA) offers the following comments for consideration on this measure which prohibits offering, listing, advertising, and displaying a rate that does not include all resort fees, and requires the inclusion of all taxes and fees imposed by a government on a transient accommodation.

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.

# STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

February 9, 2024

The Honorable Jarrett Keohokalole, Chair  
The Honorable Carol Fukunaga, Vice Chair  
Committee on Commerce and Consumer Protection  
Hawaii State Senate  
Hawai'i State Capitol, Room 205  
415 S. Beretania Street  
Honolulu, Hawaii 96813

The Honorable Lynn DeCoite, Chair  
The Honorable Glenn Wakai, Vice Chair  
Committee on Energy, Economic Development, and Tourism  
Hawaii State Senate  
Hawai'i State Capitol, Room 230  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Hearing: Senate Committees on Commerce and Consumer  
Protection and Energy, Economic Development, and  
Tourism  
Hearing Date: February 13, 2024  
Time: 9:00 a.m.  
Place: Via Videoconference  
Conference Room 229  
State Capitol  
415 South Beretania Street

Testimony in Support of Senate Bill 2993  
Relating to Consumer Protection

Aloha Chairs Keohokalole and DeCoite, Vice Chairs Fukunaga and Wakai and  
Committee Members:

I represent a number of hotel operators and owners. A number of my clients support transparent pricing practices by “disclosing resort and other mandatory fees up front rather than prior to the finalization of a booking transaction.” They believe consumers should have access to “the same pricing transparency, no matter the transient accommodations type or distribution channel” and that establishing a “single standard for hotels, motels, short-term rentals, online travel agencies, metasearch sites, short-term rental platforms and other entities that offer, list, advertise, or display transient accommodations would not only prevent consumers from being misled, but also ensure a level playing field across the tourism industry.”

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The Honorable Jarrett Keohokalole, Chair  
The Honorable Carol Fukunaga, Vice Chair  
The Honorable Lynn DeCoite, Chair  
The Honorable Glenn Wakai, Vice Chair  
February 9, 2024  
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California was the first state to enact legislation requiring mandatory fees (AB 537) be included in the initial advertised price to consumers. Several other states including Pennsylvania, New York, Massachusetts, and Colorado have introduced or are planning to introduce legislation to require upfront disclosure of mandatory fees in the initial price. Some other states may also have legislation in this space, but it is currently unknown at this time. We support the California model to create a single disclosure and display standard, avoid a patch work of different standards, and avoid large costs to businesses to update their booking systems several times to account for differences amongst states.

I respectfully request for clarification that the definition of "Person" be added before the definition of "Taxes and fees imposed by a government" to Senate Bill 2993 as follows:

"Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

The above definition of "Person" was taken from HRS §481B-21 Definitions, [Part II.] Cybersquatting.

Thank you for considering my testimony.

Mahalo nui,



Ivan M. Lui-Kwan

**LATE**



**MAUI**  
CHAMBER OF COMMERCE  
**VOICE OF BUSINESS**

**HEARING BEFORE THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION and  
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM  
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229  
Tuesday, February 13, 2024 AT 9:00 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  
To The Honorable Senator Lynn DeCoite, Chair  
The Honorable Senator Glenn Wakai, Vice Chair  
Members of the committee on Energy, Economic Development, and Tourism

**COMMENTS ON SB2993 RELATING TO CONSUMER PROTECTION**

The Maui Chamber of Commerce would like to **COMMENT on SB2993**.

The Chamber understands the intent of this bill is that fully transparent pricing from the outset of a consumer's transient accommodations booking in Hawaii is paramount to their proper experience of aloha.

The Chamber has a professional rental management association (PRMA), which are professional managers who follow the laws and work to do things the right way. We note that often property management systems are not set up to combine rates and fees and that would require significant work and modification to comply with the proposed legislation.

We are concerned that \$10,000 for each occurrence is excessive since someone may make a genuine mistake. If that mistake gets posted in multiple venues that fine could be unfairly excessive.

It is unclear if fees, such as "cleaning fees" for managed properties, are included or excluded from this bill. "Cleaning fees" are certainly not resort fees or government fees, however these are fees disclosed as a one-time fee for the whole booking – not a per night fee.

Mahalo for the opportunity to **COMMENT on SB2993**.

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.

February 13, 2024

**The Honorable Jarrett Keohokalole, Chair**

Senate Committee on Commerce and Consumer Protection

**The Honorable Lynn DeCoite, Chair**

Senate Committee on Energy, Economic Development, and Tourism  
State Capitol, Conference Room 229 & Videoconference

**RE: Senate Bill 2993, Relating to Consumer Protection**

**HEARING: Tuesday, February 13, 2024, at 9:00 a.m.**

Aloha Chair Keohokalole, Chair DeCoite, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR provides **comments** on Senate Bill 2993, which prohibits any operator, transient accommodations broker, or person from offering, listing, advertising, and displaying a rate that does not include all resort fees. Requires all operators, transient accommodations brokers, and persons to include all taxes and fees imposed by a government on a transient accommodation. Establish penalties.

HAR is concerned with the broad definitions in this measure. As written, this measure may affect real estate licensees who list, advertise, or display accommodation rates and enter into rental agreements for properties that are less than 180 days, including month-to-month rentals. When a long-term lease expires, there is an option for the lease to convert to a month-to-month basis. It may not have been the intent of this measure to affect long-term leases or those rental agreements that convert to month-to-month; nevertheless, we believe there could be an unintended impact on the long-term rental market due to the broad definitions in this bill.

This measure defines "transient accommodation broker" the same as Hawaii Revised Statutes §237D-1, "any person or entity, including but not limited to persons who operate online websites, online travel agencies, or online booking agencies, that offers, lists, advertises, or accepts reservations or collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans." Additionally, transient accommodations is defined as "the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than one hundred eighty consecutive days for each letting in a hotel, apartment hotel, motel, condominium or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients."



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Additionally, HAR would note that for real estate licensees that do manage legal short-term rentals, resort fees may be collected by an entity other than the individual responsible for the listing, such as the front desk of a property. These fees may not be in the control of the individual offering the listing and could also be subject to change. Therefore, there may be challenges in accurately disclosing the resort fees in advertisements.

Mahalo for the opportunity to testify.







February 12, 2024

The Honorable Jarrett Keohokalole  
Chair  
Senate Committee on Commerce and Consumer Protection  
Hawai'i State Capitol, Room 205  
415 S Beretania St.,  
Honolulu, HI

RE: Oppose SB 2993: Relating To Consumer Protection.

Dear Representative Keohokalole 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 2993 based on its current drafting**. While we support efforts to eliminate deceptive fees and manipulative pricing in certain industries, SB 2993 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 2993, 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 2993.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth Whittaker', with a large, stylized initial 'R' and a long, sweeping horizontal stroke extending to the right.

Ruth Whittaker,  
Director of Civic Innovation Policy

**LATE**

**LATE**

**SB-2993**

Submitted on: 2/13/2024 9:51:14 AM

Testimony for CPN on 2/13/2024 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Victoria Johnson	Individual	Oppose	Written Testimony Only

Comments:

The bill is very ambiguous in terms of many issues! The intent is a good one, but how to implement and have ALL entities meet the guidelines as required.