
A BILL FOR AN ACT

RELATING TO ANTITRUST.

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

1 SECTION 1. The legislature finds and declares that Hawaii
2 is in the midst of an affordable housing crisis, with the
3 highest median rent in the nation. Data shows that more than
4 half of renters in Hawaii are housing cost burdened, which means
5 an individual spends more than thirty per cent of the
6 individual's income on rent.

7 The legislature further finds that recent national data
8 indicates that landlords of residential rental housing use
9 property management software to collude and raise residential
10 rental housing prices, which may have contributed to recent
11 increases in the State. Landlords engaging with the property
12 management software supply real-time prices and additional lease
13 information to companies managing the software, who proceed to
14 use algorithms to fix rental prices. As a result, competition
15 decreases and rental prices typically increase.

16 The legislature acknowledges that a leading property
17 management software company in the United States hinted at the



1 outcome of using its software by stating on its website that the
2 software enables landlords to "outperform the market" by two to
3 five per cent, with a company executive publicly stating that
4 the software could be responsible for rent increases of up to
5 14.5 per cent.

6 Therefore, the purpose of this Act is to prevent
7 artificially inflated rental prices by prohibiting the use of
8 algorithmic price-setting in Hawaii's rental market.

9 SECTION 2. Chapter 480, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§480- Rent price-fixing; declared unlawful; civil
13 actions; public education program. (a) It shall be unlawful
14 and a violation of this chapter for:

- 15 (1) A coordinator to perform a coordinating function;
- 16 (2) A coordinator to facilitate an agreement among rental
17 property owners that restricts competition with
18 respect to the pricing, lease terms, or ideal
19 occupancy levels for residential dwelling units; or
- 20 (3) Two or more rental property owners to engage in
21 consciously parallel pricing coordination.



1 (b) In a civil action filed pursuant to this section, a
2 complaint:

3 (1) Plausibly pleads a violation of section 480-4(a) if
4 the complaint contains factual allegations
5 demonstrating that the existence of a contract,
6 combination in the form of trust or otherwise, or
7 conspiracy in restraint of trade or commerce is among
8 the realm of plausible possibilities; and

9 (2) Need not allege facts tending to exclude the
10 possibility of independent action.

11 (c) The department of the attorney general shall develop
12 and implement a public education program to inform the citizens
13 of the State about this section. A component of the public
14 education program shall include information posted on the
15 website of the department of the attorney general and the steps
16 a consumer may take if the consumer suspects a violation of this
17 section.

18 (d) The department of the attorney general shall adopt
19 rules pursuant to chapter 91 for the purposes of this section.

20 (e) For the purposes of this section:



1 "Consciously parallel pricing coordination" means a tacit
2 agreement between two or more rental property owners to raise,
3 lower, change, maintain, or manipulate pricing for the purchase
4 or sale of reasonably interchangeable products or services.

5 "Coordinating function" means:

- 6 (1) Collecting historical or contemporaneous prices,
7 supply levels, or lease or rental contract termination
8 and renewal dates of residential dwelling units from
9 two or more rental property owners;
- 10 (2) Analyzing or processing of the information described
11 in paragraph (1) through use of a system, software, or
12 process that uses computation, including by using the
13 information to train an algorithm; and
- 14 (3) Recommending rental prices, lease renewal terms, or
15 ideal occupancy levels to a rental property owner.

16 "Coordinator" means any person who operates a software or
17 data analytics service that performs a coordinating function for
18 any rental property owner, including a rental property owner
19 performing a coordinating function for their own benefit.

20 "Residential dwelling unit" means any house, apartment,
21 accessory unit, or other unit intended to be used as a primary



1 residence in the State. "Residential dwelling unit" shall not
2 include inpatient medical care, licensed long-term care, or
3 detention or correctional facilities."

4 SECTION 3. Section 480-16, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Any person who violates section 480-4, 480-6, 480-9,
7 [~~or~~] 480-17, or 480-_____, including any principal, manager,
8 director, officer, agent, servant, or employee, who had engaged
9 in or has participated in the determination to engage in an
10 activity that has been engaged in by any association, firm,
11 partnership, trust, or corporation, which activity is a
12 violation of section 480-4, 480-6, 480-9, [~~or~~] 480-17, [~~is~~
13 ~~punishable if~~] or 480-_____, shall be punished as follows in the
14 discretion of the court:

15 (1) If the person is a natural person, by a fine not
16 exceeding \$100,000 or [~~by~~] imprisonment not exceeding
17 three years, or [~~by~~] both [~~such fine and imprisonment,~~
18 ~~in the discretion of the court; if~~]; or

19 (2) If the person is not a natural person [~~then~~], by a
20 fine not exceeding \$1,000,000."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Attorney General; Antitrust; Rental Housing; Price-fixing;
Public Education Program; Penalties

Description:

Prohibits the use of algorithmic price-setting in Hawaii's rental market. Requires the Department of the Attorney General to develop and undertake a public education program regarding the prohibition. Establishes fines and penalties. Effective 7/1/2050. (SD2)

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