



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:
H.B. NO. 2611, RELATING TO ANTITRUST.

BEFORE THE:
HOUSE COMMITTEE ON HOUSING

DATE: Wednesday, February 11, 2026 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 430

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Rod Kimura, Deputy Attorney General

Chair Evslin and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill and provides the following comments.

The Department's overarching comment is that this bill does not provide clarity on prohibited activities. This clarity is critical because the bill imposes criminal penalties for violators. In addition, there may be subject-title issues where the proposed violations are not antitrust violations.

The stated purpose in section 1 of this bill is to "prevent artificially inflated rental prices by prohibiting the use of algorithmic price-fixing" in the setting of rents. Page 3, lines 11-13. Section 2 of the bill contains the main substantive provisions, including three violations and definitions. However, this section does not reference or define "algorithmic price-fixing" nor explain what constitutes "artificially inflated rental prices."

An algorithm is a set of instructions for solving a problem, typically a mathematical problem. An algorithm can be used to determine rent by mental calculation, by hand calculation, by a calculator, or by a computer.

Rent setting, as a mathematical exercise using an algorithm, is not in and of itself an illegal activity, but one necessary to enable property owners to accurately compute a rent amount to ensure that it covers fixed and variable expenses, such as the mortgage expenses, association fees, utility costs, insurance premiums, reserve assessments, and property taxes, including associated adjustments.

The first proposed violation in the new section 480- (a)(1) would prohibit a coordinator from performing a coordinating function. The breadth of this section could pose enforcement issues.

First, the definition of "coordinating function" lists certain activities and culminates with the making of a recommendation to a property owner. The act of a coordinator performing certain tasks culminating with issuing (or "speaking") a recommendation does not sufficiently articulate an antitrust violation, even with the terms in the proposed definition of "coordinating function" at page 5, lines 19-20 (rental prices, lease renewal terms, or ideal occupancy levels), each of which could encompass many factors for many actors. We add that the proposed prohibition could raise commercial speech legal issues.

Second, the breadth of the wording would make it a violation for a property owner to self-perform the "coordinating function" for the owner's own benefit. Page 6, lines 3-4. An action by a property owner for the owner's own benefit is not concerted action and does not constitute an antitrust violation.

Third, the definition of "coordinating function" lists a host of services. It is unclear whether there would be a violation if the coordinator performed some but not all of the listed services.

Fourth, property managers provide a range of services and information for property owners addressing: (i) market conditions; (ii) public data (e.g., data offered by Zillow, Trullia, RentalSource, and UHERO publications); (iii) tenant screening; (iv) negotiation of rental agreements; (v) rent collection, and more. It is unclear whether providing these services would constitute a violation.

Overall, the vagueness of the wording of this violation and the potential exposure to criminal penalties could raise enforcement concerns. Constitutional issues may also arise from a claim that the wording fails to define the prohibited conduct with sufficient definiteness to enable an ordinary person to understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.

Therefore, the Department recommends not creating this new violation.

The second proposed violation in the new section 480- (a)(2) would prohibit a coordinator/property manager from facilitating an agreement among property owners

that restricts competition as to pricing, lease terms, or ideal occupancy levels. The breadth of this section could pose enforcement issues.

First, "restrict competition," "pricing," "lease terms," and "ideal occupancy levels" are undefined. Every contract restricts competition. Furthermore, each term could refer to myriad factors. Thus, a coordinator/property manager could be in violation if it leased multiple dwelling units in accordance with each owner's directives on rent, lease terms, or occupancy levels, where each owner's directive is deemed to be competitively restrictive relative to other owners.

Second, given the absence of the term "coordinating function" in this violation, it is unclear if it would constitute a violation if a coordinator/property manager provided some information on pricing, lease terms, or ideal occupancy levels, but did not otherwise perform the specified tasks in the definition of "coordinating function."

As with the first violation, the vagueness of the second violation's wording, along with the potential exposure to criminal penalties, could raise enforcement and constitutional issues.

Therefore, the Department recommends not creating this new violation.

The third violation in the new section 480- (a)(3) would prohibit two or more property owners from engaging in "consciously parallel pricing coordination."

The new section 480- (e) defines the term "consciously parallel pricing coordination" as a "tacit agreement" regarding "the purchase or sale of reasonably interchangeable products or services." Page 5, lines 6-9. This definition is inconsistent with the bill's focus on the housing rental market.

An example of "consciously parallel pricing" might be where two property owners charge the same rent without a meeting, explicit communications, or agreements. Parallel pricing alone is not an antitrust violation. Without a definition of "tacit agreement," the addition of this term does not provide helpful guidance since the conduct of two owners charging the same rent does not establish an antitrust violation.

Therefore, the Department recommends not creating this new violation and the associated definition.

The new section 480- (b) at page 4, lines 9-16, does not express a violation. Instead, the wording refers to a civil antitrust action alleging that section 480-4(a), HRS,

has been violated, a current law that is the Hawaii counterpart to section 1 of the Sherman Act and prohibits unreasonable restraints of trade by way of a contract, combination, or conspiracy. New section 480- (b) is unnecessary since section 480-4(a), HRS, already proscribes illegal antitrust conduct, and given the issues raised by the new violations created by section 480- (a). Furthermore, section 480-4, HRS, is construed in accordance with judicial interpretations of section 1 of the Sherman Act per section 480-3, HRS. Thus, the complaint must allege more than conclusory allegations; it must set forth enough factual matter (taken as true) to suggest that an agreement was made. In addition, the complaint must address issues such as antitrust injury, and the relevant product market product and relevant geographic market or face a dismissal challenge for failure to state a claim.

Section 3 of the bill seeks to amend section 480-16, HRS, to include a reference to the new section 480- in section 2 of the bill. This proposed amendment is inconsistent with the new section 480- (b)(1) of the bill at page 4, line 9, which refers to a claim that section 480-4(a), HRS, has been violated. Since section 480-4 is already referenced in section 480-16, HRS, it is unnecessary to also reference the new section 480- in section 480-16.

Finally, the Department is opposed to being tasked with developing and implementing a public education program and adopting rules (page 4, line 17, to page 5, line 4) in light of the issues posed by this bill, due to resource constraints, and because the use of an algorithm could even result in the lowering of rents. An alternative approach might be to require property owners to provide a written disclosure to prospective renters stating whether the rent is set by an algorithm and, if so, the details of the algorithm, and enable the prospective renter to decide whether the rent is acceptable.

For these reasons, the Department recommends that this bill not be passed out of the Committee.

Thank you for the opportunity to comment on this bill.



HAWAI‘I CIVIL RIGHTS COMMISSION

KOMIKINA PONO KIWILA O HAWAI‘I

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 586-8692

DATE: Wednesday, February 11, 2026
TIME: 9:00 A.M.
PLACE: VIA VIDEOCONFERENCE
Conference Room 430
State Capitol
415 South Beretania Street

To

[COMMITTEE ON HOUSING](#)

Rep. Luke A. Evslin, Chair

Rep. Tyson K. Miyake, Vice Chair

From: Alphonso Braggs, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: HB 2611 Relating to ANTITRUST

Testimony in SUPPORT

The Hawai‘i Civil Rights Commission (HCRC) carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5. HCRC has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment (Chapter 378, Part I, HRS), housing (Chapter 515, HRS), public accommodations (Chapter 489, HRS), and access to state and state-funded services (HRS § 368-1.5).

The purpose of HB 2611 is to prevent artificially inflated rental prices by prohibiting the use of algorithmic price-setting in Hawaii’s rental housing market and will require the department of the attorney general to develop a public education program to inform the public about the new section and what steps a consumer can take if they suspect a violation.

HCRC is concerned about the impact that anticompetitive practices may have in perpetuating discriminatory housing outcomes in our community. Economic harm created by anticompetitive practices will adversely impact certain groups resulting in adverse impact discrimination. By preventing monopolies or near-monopolies in the housing market, antitrust protection offered by HB2611 will protect against discriminatory practices in Hawai'i's already strained housing market.

Thank you for hearing this measure.

February 11, 2026

The Honorable Luke A. Evslin, Chair

House Committee on Housing
State Capitol, Conference Room 430 & Videoconference

RE: House Bill 2611, Relating to Antitrust

HEARING: Wednesday, February 11, 2026, at 9:00 a.m.

Aloha Chair Evslin, Vice Chair Miyake, and Members of the Committee:

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 10,000 members. HAR provides **comments** on House Bill 2611, which 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.

In August 2024, the United States Department of Justice ("DOJ"), joined by ten states attorney general, filed a civil antitrust lawsuit¹ against RealPage, Inc., alleging that the company facilitated unlawful information sharing among competing landlords through the use of its algorithmic rental pricing software. In November 2025, the DOJ reached a proposed settlement with RealPage to resolve these claims. Based on the settlement, Real Page would agree to significant restrictions on its business practices, including prohibiting the use of competitors' non-public, competitively sensitive information in runtime pricing decisions; limiting model training to historic, backward-looking data aged at least twelve months; removing or redesigning features that discouraged rent decreases or aligned pricing among competitors; refraining from collecting or discussing non-public market data; accepting oversight by a court-appointed monitor; and cooperating with the DOJ's ongoing litigation against certain property management companies.²

This settlement reflects the DOJ's position that competing housing providers must make independent pricing decisions and demonstrates that existing federal and state antitrust laws are already being actively enforced to address alleged misconduct involving algorithmic pricing tools.

¹ U.S. and Plaintiff States v. RealPage, Inc. (August 23, 2024). *Case No. 1:24-cv-00710-LCB-JLW*
<https://www.justice.gov/atr/media/1383471/dl>

² U.S Department of Justice Office of Public Affairs. (November 24, 2025). *Justice Department Requires RealPage to End the Sharing of Competitively Sensitive Information and Alignment of Pricing Among Competitors.*
<https://www.justice.gov/opa/pr/justice-department-requires-realpage-end-sharing-competitively-sensitive-information-and>

Property managers often rely on property management software for lawful and essential business operations, including accounting, maintenance tracking, rental agreement administration, and the analysis of publicly available and historic market data to make informed decisions. Many housing providers may not have insight into whether third-party software incorporates algorithmic features that could later be deemed problematic. As such, legislation that broadly prohibits algorithmic-pricing, especially as it relates to historic property data and not forward-looking data, may create uncertainty and expose well-intentioned housing providers to liability for tools they do not design or control.

HAR also has concerns that the bill's broad definitions of "coordinator" and "coordinating function" may unintentionally encompass ordinary and lawful rental practices that are not the target of antitrust enforcement. Housing providers routinely and independently review market conditions, comparable rents, and operating costs, when setting prices, and pricing can occur in competitive markets without any coordination or agreement. Restricting the use of historic or publicly available comparable data may have the unintended effect of increasing, rather than decreasing, rental prices.

Additionally, this measure allows a civil action to proceed if a complaint contains factual allegations demonstrating that the existence of a contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is among the realm of plausible possibilities, and provides that a plaintiff need not allege facts tending to exclude the possibility of independent action. This standard could expose well-intentioned housing providers, including small property management companies, to costly civil litigation even where independent decision-making is present. The bill also authorizes penalties of up to \$100,000 in fines and three years of imprisonment for individuals, and up to \$1,000,000 in fines for entities. These provisions may discourage participation in the rental market and further reduce housing supply.

Considering the recent DOJ proposed settlement and ongoing enforcement actions, this issue is actively being addressed through existing federal antitrust frameworks. Moreover, allowing additional time to assess the effectiveness of these federal actions may better inform whether state legislation is needed, particularly given that collusion and price-fixing between competitors is already unlawful under existing federal and state law.

Mahalo for the opportunity to provide testimony on this measure.

HB-2611

Submitted on: 2/9/2026 3:41:24 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tasman Kekai Mattox	50501 Hawaii and General Strike Hawaii	Support	Written Testimony Only

Comments:

We are submitting this testimony in support of HB2611 to prohibit algorithmic price-setting for our rental market. It is well known that Hawai'i has exorbitant rental prices, which put working people, families, and locals under extreme pressure to make rent. Algorithmic price-setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human right and making it more expensive based on market fluctuations actively disenfranchises those who make Hawai'i such a special place.

Aloha Chair Evslin and Members of the Committee,

Hoaloha Project respectfully offers **strong support** for HB2611. As a nonprofit serving foster and vulnerable youth across our islands, we see firsthand how housing instability directly impacts the safety and future of our keiki. Keiki who experience foster care are at significantly higher risk of becoming homeless as young adults, particularly when stable and affordable housing is out of reach.

Nearly half of the keiki in Hawaii's foster care system are Native Hawaiian, and Native Hawaiians are disproportionately represented among those experiencing homelessness. **Housing policy is inseparable from equity and child well-being.**

HB2611's prohibition on algorithmic rent-setting practices is a targeted step toward preventing artificial rent inflation and promoting a fairer rental market. Stabilizing rents helps keep families housed and **reduces the likelihood that vulnerable youth will face displacement or homelessness.** For foster youth transitioning into adulthood, affordable housing can mean the difference between stability and crisis. For these reasons, Hoaloha Project respectfully urges your support and passage of HB2611.

Mahalo for your continued commitment to Hawaii's keiki.



HB-2611

Submitted on: 2/9/2026 4:06:23 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Lily Hiilani Okimura	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am writing testimony in support of HB 2611 to prohibit algorithmic price-setting for our rental market. It is well-known that Hawai‘i has **exorbitant** rental prices, which put working people, families, and local residents under extreme pressure to make rent. Algorithmic price-setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human rights and making it more expensive based on market fluctuations actively disenfranchises those who make Hawai‘i such a special place.

HB-2611

Submitted on: 2/9/2026 4:10:40 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tina Even	Individual	Support	Written Testimony Only

Comments:

I fully support HB2611 - no more benefits to realtors and off-island investors. Stop algorithmic surge pricing.

Tina Marie Even

HB-2611

Submitted on: 2/9/2026 4:38:18 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kau'i Baumhofer Merritt	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose algorithmic price-setting as both a former renter and a current landlord. This process is concerning for several reasons. First, it is anti-competition and will lead to large landlords to collabotae with each other. This will disadvantage small landlords like myself and renters who are already struggling to survive in Hawai'i's exorbitant rental market. Second, such algorithms will almost certainly increase socioeconomic disparities. One example of this is ride share applications using algorithmic pricing to charge more for pick up for drop offs in non-white areas, which financially burdens ethnic minority communities who are often of lower socioeconomic status (Pandy, A. & Caliskan, A. (2020). Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy's Price Discrimination Algorithms. *Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society* (pp. 822-833)).

HB-2611

Submitted on: 2/9/2026 5:02:17 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Peter deVries	Individual	Support	Written Testimony Only

Comments:

Tax billionaires don't support them ffs

HB-2611

Submitted on: 2/9/2026 5:02:27 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kylie	Individual	Support	Written Testimony Only

Comments:

I am submitting this testimony in support of

HB2611 to prohibit algorithmic price-setting for our rental market. It is well known that Hawaii has exorbitant rental prices, which put working people, families, and locals under extreme pressure to make rent. Algorithmic price-setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human right and making it more expensive based on market fluctuations actively disenfranchises those who make Hawaii such a special place.

HB-2611

Submitted on: 2/9/2026 5:30:29 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Angie Knight	Individual	Support	Written Testimony Only

Comments:

I support the passing of HB2611. With the cost of living ever increasing, measures like these help to eliminate avenues that artificially inflate housing costs.

HB-2611

Submitted on: 2/9/2026 7:10:44 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Support	Written Testimony Only

Comments:

Allowing algorithmic pricing for the housing market here in Hawaii would be akin to giving a cigarette to a cancer patient. Support this bill to support the people of Hawaii

HB-2611

Submitted on: 2/9/2026 7:55:11 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Lee Cuccia	Individual	Support	Written Testimony Only

Comments:

Please pass! Mahalo.

HB-2611

Submitted on: 2/10/2026 12:49:09 AM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry Support

2611 HB RELATING TO ANTITRUST.

HB-2611

Submitted on: 2/10/2026 3:43:22 AM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cypriano Way	Individual	Support	Written Testimony Only

Comments:

Dear Chair Evslin, Vice-Chair Miyake, and members of the House Committee on Housing,

As a renter, I am submitting this testimony in strong support of HB2611 and urge you to pass this bill through this committee. It is not a secret that the State of Hawai'i experiences some of the highest average monthly rental prices in the nation, putting our state's working-class communities under extreme financial pressure, especially to afford and make rent. This present state of affairs, is further exacerbated by the use of algorithmic price-setting. It inflates rents while benefiting corporste landlords and ultra-wealthy investors at the expense of our state's tenant population. Furthermore, it greatly contributes to our state's housing crisis and feeds into our existing challenges regarding our growing homeless population too, as a result of a lack of stable housing options for lower-income residents and tenant protections as well. For the reasons stated in this testimony, I urge you to pass HB2611 to help protect our state's tenant population from bad actors. Thank you.

HB-2611

Submitted on: 2/10/2026 10:56:04 AM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Noelle Lindenmann	Individual	Support	Written Testimony Only

Comments:

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

I am submitting this testimony in strong support of HB2611 to prohibit algorithmic price-setting for our rental market.

It is well known that Hawaii has exorbitant rental prices, which put working people, families, and locals under extreme pressure to make rent. Algorithmic price-setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human right and making it more expensive based on market fluctuations actively disenfranchises those who make our state such a special place.

Mahalo for this opportunity to provide testimony.

Noelle Lindenmann, Kailua-Kona

HB-2611

Submitted on: 2/10/2026 12:08:06 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrick Karjala	Individual	Support	Written Testimony Only

Comments:

Dear committe members,

I am writing in SUPPORT of HB2611.

There are many corporations that have used algorithms to fix prices higher over time to the disadvantage of renters. We must not allow this type of higher prices for Hawaii's renters.

Please vote in SUPPORT of HB2611

-Patrick Karjala
Mililani, HI

HB-2611

Submitted on: 2/10/2026 7:21:36 PM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Santos Rosario Jr.	Individual	Support	Written Testimony Only

Comments:

I am submitting this testimony in support of HB2611 to prohibit algorithmic price-setting for our rental market. It is well known that Hawai'i has exorbitant rental prices, which put working people, families, and locals under extreme pressure to make rent. Algorithmic price setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human right and making it more expensive based on market fluctuations actively disenfranchises those who make Hawai'i such a special place.

HB-2611

Submitted on: 2/11/2026 2:50:28 AM

Testimony for HSG on 2/11/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristen Young	Individual	Support	Written Testimony Only

Comments:

I support HB2611 to prohibit the use of algorithmic price-setting in Hawaii's rental market. We know there's a housing crisis here and that rental prices are high and unaffordable for many. Many people struggle to make rent. Algorithmic price setting would benefit realtors and off-island investors while further exploiting the desperation of consumers. Housing is a human right that we must protect and ensure for all those who call Hawaii home.