A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE RENTAL INDUSTRY.

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

SECTION 1. The legislature finds that a healthy and robust rental car industry is vital to Hawaii's tourism economy and supports tourism as an integral part of Hawaii's transportation infrastructure. Although current law permits rental car companies to recover from rental car customers certain mandatory government fees paid by the companies to make rental vehicles road-ready, the prorated formula is calculated over a period of three hundred sixty-five days, which results in a significant portion of the fees going unrecovered. Rental car companies incur a shortfall in collections under current law, which hinders their ability to provide a selection of rental cars to customers, many of which are tourists who want to explore areas of the State that require a rental car.

The legislature also finds that many other states have laws permitting rental car companies to pass on to consumers an amount closer to the full recovery of mandatory government fees.

The purpose of this Act is to amend the prorated amount of vehicle license and registration fee and weight taxes that
rental car companies are allowed to pass on to lessees, and to expand the categories of government fees that the companies are permitted to collect.

SECTION 2. Section 437D-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Vehicle license recovery fees" includes motor vehicle weight taxes under section 249-2; fees connected with the registration of specially constructed, reconstructed, or rebuilt vehicles, special interest vehicles, or imported vehicles as referenced in section 286-41(c); license plate and emblem fees under section 249-7(b); inspection fees as referenced in section 286-26; highway beautification fees as referenced in section 286-51(b)(1); and any use tax under chapter 238."

SECTION 3. Section 437D-8.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any law to the contrary, a lessor may visibly pass on to a lessee:

(1) The general excise tax attributable to the transaction;
(2) The vehicle license [and registration fee and weight] recovery fees, prorated at [1/365th] 1/292nd of the annual vehicle license [and registration fee and weight taxes] recovery fees actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license [and registration fee] recovery fees charged to all lessees shall not exceed the annual vehicle license [and registration fee] recovery fees actually paid for the particular vehicle rented;

(3) The surcharge taxes imposed in chapter 251 attributable to the transaction;

(4) The county surcharge on state tax under section 46-16.8; provided that the lessor itemizes the tax for the lessee; and

(5) The rents or fees paid to the department of transportation under concession contracts negotiated pursuant to chapter 102, service permits granted pursuant to title 19, Hawaii Administrative Rules, or
rental motor vehicle customer facility charges
established pursuant to section 261-7; provided that:

(A) The rents or fees are limited to amounts that can
be attributed to the proceeds of the particular
transaction;

(B) The rents or fees shall not exceed the lessor’s
net payments to the department of transportation
made under concession contract or service permit;

(C) The lessor submits to the department of
transportation and the department of commerce and
consumer affairs a statement, verified by a
certified public accountant as correct, that
reports the amounts of the rents or fees paid to
the department of transportation pursuant to the
applicable concession contract or service permit:

(i) For all airport locations; and

(ii) For each airport location;

(D) The lessor submits to the department of
transportation and the department of commerce and
consumer affairs a statement, verified by a
certified public accountant as correct, that
reports the amounts charged to lessees:
(i) For all airport locations;
(ii) For each airport location; and
(iii) For each lessee;
(E) The lessor includes in these reports the
methodology used to determine the amount of fees
charged to each lessee; and
(F) The lessor submits the above information to the
department of transportation and the department
of commerce and consumer affairs within three
months of the end of the preceding annual
accounting period or contract year as determined
by the applicable concession agreement or service
permit.
The respective departments, in their sole discretion,
may extend the time to submit the statement required
in this subsection. If the director determines that
an examination of the lessor's information is
inappropriate under this subsection and the lessor
fails to correct the matter within ninety days, the
director may conduct an examination and charge a
lessor an examination fee based upon the cost per hour
per examiner for evaluating, investigating, and
verifying compliance with this subsection, as well as
additional amounts for travel, per diem, mileage, and
other reasonable expenses incurred in connection with
the examination, which shall relate solely to the
requirements of this subsection, and which shall be
billed by the departments as soon as feasible after
the close of the examination. The cost per hour shall
be $40 or as may be established by rules adopted by
the director. The lessor shall pay the amounts billed
within thirty days following the billing. All moneys
collected by the director shall be credited to the
compliance resolution fund."

SECTION 4. No later than twenty days prior to the
convening of the regular session of 2019, the motor vehicle
rental industry shall report to the legislature on the effect of
this Act on the average vehicle license recovery fee charged to
each customer on each motor vehicle rental and the average time
in service of each motor vehicle rental.
SECTION 5. Beginning March 1, 2019, all rental car companies shall submit an annual audit, to be conducted by a third party certified public accountant, to the office of consumer protection of the department of commerce and consumer affairs by July 1 of every year.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2017; provided that the amendments made to section 437D-8.4(a), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when that section is reenacted on December 31, 2027, pursuant to section 9 of Act 247, Session Laws of Hawaii 2005, as amended by section 7 of Act 240, Session Laws of Hawaii 2015.
Report Title:
Motor Vehicle Rentals; Pass-on Costs

Description:
Defines vehicle license recovery fees. Expands the base of government fees and taxes that a motor vehicle lessor may pass on to a lessee on a prorated basis to be the vehicle license recovery fees. Amends the prorated amount of vehicle license recovery fees that rental car companies may pass on to lessees. Requires all rental car companies to submit an annual audit to the Office of Consumer Affairs. Requires the motor vehicle rental industry to report to the legislature prior to the regular session of 2019. (HB735 CD1)

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