

March 21, 2024

Oregon Senate Committee on Housing and Development  
900 Court Street NE  
Salem, Oregon 97301

## RE: COMMENT ON SB 722

Dear Chair Pham And Members of the Committee:

TechEquity writes to provide comment on SB 722, which would prohibit landlords from using software that relies on algorithms trained with non-public competitor data and reduce the new construction exemption for rent stabilization. TechEquity has worked on California's legislation and supports the Oregon authors' inclusion of rental pricing algorithm regulations, which will send a clear signal that technology cannot be used to circumvent existing laws.

TechEquity's mission is to raise public consciousness about economic equity issues that result from the tech industry's products and practices and advocate for change that ensures tech's evolution benefits everyone. As recent investigations and lawsuits have made clear, pricing algorithms are harming consumers and worsening the cost of living crisis.<sup>1,2</sup> We are currently sponsoring SB 52, the End AI Rent Hikes Act, and AB 325, the End Algorithmic Price Fixing Act in the California Legislature.<sup>3,4</sup>

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<sup>1</sup> Little, Heather Vogell, Haru Coryne, Ryan. "Rent Going Up? One Company's Algorithm Could Be Why." ProPublica, 15 Oct. 2022, <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>.

<sup>2</sup> Justice Department Sues Six Large Landlords for Algorithmic Pricing Scheme That Harms Millions of American Renters | United States Department of Justice. 7 Jan. 2025, <https://www.justice.gov/archives/opa/pr/justice-department-sues-six-large-landlords-algorithmic-pricing-scheme-harms-millions>.

<sup>3</sup> SB 52- INTRODUCED.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202520260SB52](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB52). Accessed 20 Mar. 2025.

<sup>4</sup> AB 325- AMENDED.

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202520260AB325](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB325). Accessed 20 Mar. 2025.

We commend the authors for drafting these common-sense protections to address tech's role in price fixing. A Biden White House Council of Economic Advisors report found that pricing algorithms conservatively cost American renters \$3.8 billion in 2023. A ProPublica investigation into RealPage found that properties relying on the company's pricing algorithm charged 3-7% higher monthly rent than those who didn't use the software.<sup>5</sup> While competitor collusion to raise prices has long been illegal, technology can obscure where and when it happens, making it more challenging to combat.

The Sherman Act and other antitrust statutes were enacted when the biggest industrialist of the Gilded Age shook hands to cement secret backroom deals—we live in a different time, and we need modern protections that account for today's increasingly tech-backed business practices. While ongoing lawsuits could take years to be resolved, the Legislature must act today to ensure basic competitive practices, and that renter households have a fair chance.

Elected officials must act urgently to rein in tech runarounds of longstanding law, and to update antitrust enforcement for how the tech-backed housing market works today. We support SB 722 and respectfully submit the following comments on how the bill could be strengthened:

#### **Broaden the Applicability to All Parties That Make Rental Decisions**

The measure currently prohibits landlords from establishing rents with pricing algorithms. This, however, does not capture property managers, landlord associations, and others who share pricing information to make rental decisions. We urge the Committee to amend Section 2 to say that any *person* “may not establish rents or elect to elave a unit vacant based on the use of commercial software.”

#### **Include All Algorithms, Not Just Those Using Non-Public Data**

Price fixing lawsuits have historically relied on the use of non-public competitor data to prove collusion—a “bright line” standard but one that might not capture current pricing algorithms. RealPage advertises that its

<sup>5</sup> Little, Heather Vogell, Haru Coryne, Ryan. “Rent Going Up? One Company’s Algorithm Could Be Why.” ProPublica, 15 Oct. 2022,

<https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>.

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software can recommend prices using only public data while still inflating rents, and that policies that ban non-public data do nothing to address housing affordability.<sup>6</sup> Coordination amongst competitors to raise prices is illegal, regardless of the data (or technology) used to so. Regulation must focus on the coordination itself, rather than the inputs used to coordinate. To prevent loopholes, this bill should consider prohibiting the sale or use of any algorithm if it was sold to two or more competitors, or if the users reasonably should have known that a competitor was also using it.

Price fixing is not new—what is new is how technology brings speed, scale, and secrecy to illegal activities. How algorithms work, and what data they are fed changes frequently; this fact, combined with current business disclosures and trade secret claims mean that we know too little to regulate technology based on how it is designed (with public versus non-public data, for example). **Efforts to rein in tech overreach must focus not on how it is structured** (which is frequently changing and not widely known), **but on its impact**.

The tech-backed acceleration of wage inequality and profit-maximizing models is worsening a cost of living crisis that is already untenable for many Americans. TechEquity appreciates Oregon’s action on this issue and urges the Committee’s adoption of the ban on rental pricing algorithms.

Respectfully,



Hannah Holloway  
Vice President of Housing Programs | TechEquity

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<sup>6</sup> “RealPage Offers Its Revenue Management Software Customers the Ability to Remove.” RealPage Blog, <https://www.realpage.com/news/realpage-offers-its-revenue-management-software-customers-the-ability-to-remove-use-of-nonpublic-data/>. Accessed 13 Feb. 2025.