

**HB 2783,
HD2, SD1
Testimony**



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March 30, 2010

The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: H.B. 2783, H.D.2, S.D.1, Relating to General Excise Tax

HEARING: Wednesday, March 31, 2010 at 9:30 a.m.

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

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, commenting on behalf of its 8,800 members in Hawai'i. HAR **supports** H.B. 2783, H.D.2, S.D.1 to the extent that it makes permanent the reference to Chapter 514A, Hawai'i Revised Statutes, in HRS Section 237-24.3(3)(A) as amended in Section 1 of Act 239, Session Laws of Hawai'i 2007.

Act 239, Session Laws of Hawaii 2007, amends HRS 237-24.3 by extending the GET exemption, in part, for amounts received by certain apartment of association owners in reimbursement for common expenses to submanagers. Act 239 took effect on January 1, 2008 and was scheduled to be repealed on December 31, 2009.

Section 1 of Act 239 also includes a housekeeping amendment which was intended to clarify that amounts received by associations of apartment owners of condominium property regimes established under HRS Chapter 514A and 514B are both exempt from GET. HRS Chapter 514A applies to condominium property regimes established prior to July 1, 2006 and HRS Chapter 514B applies to condominiums established after July 1, 2006.

HAR supports H.B. 2783, H.D.2, S.D.1 because it permanently retains the GET exemption for association of apartment owners under HRS Chapter 514A. This measure also reflects language that carries out the intent of Act 239, SLH 2007.

For these reasons, we respectfully request that the Committee pass this measure.

Mahalo for the opportunity to submit comments on this measure.



**SENATE COMMITTEE ON
WAYS AND MEANS**

March 31, 2010

House Bill 2783, HD 2, SD 1 Relating to General Excise Tax

Chair Kim and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing Marriott Vacation Club International (Marriott).

Marriott supports House Bill 2783, HD 2, SD 1 Relating to General Excise Tax. The legislature passed Act 239 in 2007. House Bill 2783, HD 2, SD 1 eliminates the sunset provisions of Act 239 and makes the amendments permanent.

We ask for your support for the removal of the sunset date. Thank you for the opportunity to present this testimony.

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SUBJECT: GENERAL EXCISE, Exempt amounts received by submanager and suboperators

BILL NUMBER: HB 2783, SD-1

INTRODUCED BY: Senate Committees on Commerce and Consumer Protection and Tourism

BRIEF SUMMARY: Amends Act 239, SLH 2007, to repeal its December 31, 2010 sunset date and amends Act 196, SLH 2009, to clarify that the aggregate amount of tax exempted shall not exceed \$400,000 per calendar year.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: Act 239, SLH 2007, provided that amounts received by a submanager of an association of apartment owners of a condominium property regime or nonprofit homeowners or community association as reimbursement for payment of common expenses shall not be subject to general excise taxation. Act 239 also provided that the general excise tax shall not be applicable to amounts received by a timeshare association and by the suboperator of a hotel from a timeshare association or from the operator of the hotel that are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits.

While Act 239, SLH 2007, was scheduled to sunset on 12/31/09, Act 196, SLH 2009, extended this exemption until 12/31/10 and provided that the amount of the tax exemption shall not exceed \$400,000 per taxable year. This measure would make the exemption permanent and clarify that the exemption is applicable to the amount of tax and not gross receipts.

Digested 3/29/10

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MEMORANDUM

TO: Senator Donna Mercado Kim
Chair, Committee on Ways and Means
Via Email: WAMTestimony@Capitol.hawaii.gov

FROM: Gary Slovin / Mihoko Ito

DATE: March 30, 2010

RE: **H.B. 2783, H.D. 2, S.D.1 – Relating to General Excise Tax
Decision Making: Wednesday, March 31, 2010 at 9:30 a.m.**

Dear Chair Kim and Members of the Committee:

We submit the following comments on behalf of **Wyndham Worldwide** (“**Wyndham**”), a timeshare company with substantial interests in Hawaii that include Wyndham Vacation Ownership, with its resort at Waikiki Beach Walk.

Wyndham **supports H.B. 2783, H.D.2, S.D.1**, which makes permanent the general excise tax exemptions for condominium common expenses paid by managers, submanagers, and suboperators, and for hotel employee expenses paid by hotel operators and timeshare projects. The measure also clarifies the maximum allowable tax exemption.

These amounts are presently exempted from GET, as a result of a law first enacted by Act 239, SLH 2007, and extended in Act 196, SLH 2009. The exemption applies to certain sums that are transferred from the owner of the properties to the operator of the properties. Included in these sums are amounts paid that reflect what is owed to employees in the way of salary and benefits. The exemption from tax on these amounts would either take away from the amounts available to be paid to employees both in salary and benefits and, in most cases, actually result in the owner paying sums directly to employees and other persons to whom these sums are due rather than having those sums paid by the operator here in Hawaii. It is to everyone’s benefit that those sums be paid by the local operator to the local employees and local vendors.

We support this measure in its present draft because it will continue to level the playing field with regard to similarly situated entities for the payment of monies to a hotel operator for employee wages and benefits. We also support the language in this measure insofar as it clarifies that the aggregate cap on the tax exemption applies to the tax amount rather than gross receipts, and makes the exemption permanent.

Thank you very much for the opportunity to submit comments.

be able to hold the governor, as the State's chief executive as provided by law, directly accountable for the condition of public education within the State.

Therefore, we strongly urge the committee to adopt the language in S.B. 2705 and 2706, in lieu of the provisions in the bills being heard today. A proposed organizational chart for the Department of Education and suggested bill language are attached for the Committee's review. Thank you for the opportunity to provide testimony on these measures.