

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

HOUSE COMMITTEE ON FINANCE

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING SB 1186, SD2 PROPOSED HD 1 RELATING TO THE TRANSIENT ACCOMMODATIONS TAX

TESTIFIER: FREDERICK D. PABLO, DIRECTOR OF TAXATION (OR
DESIGNEE)
COMMITTEE: FIN
DATE: APRIL 4, 2011
TIME: 3:30PM
POSITION: SUPPORT

This measure: (1) assesses a \$10 per day transient accommodations tax on complimentary rooms, (2) temporarily increases the transient accommodations tax (TAT) on transient accommodation occupancy to conform to the TAT increase for transient accommodation rental income that was passed in 2009, and (3) caps the distribution to the counties at \$101,978,000.

The Department of Taxation (Department) **supports** this measure.

The Department of Taxation (Department) **does not oppose a minimum tax amount on all transient accommodations**, such as the \$10 per day minimum. The estimated revenue gain from this provision is as follows:

- General Fund: \$0.3 million/year for FY 2012 and thereafter;
- Special Funds: \$1.9 million/year for FY 2012 and thereafter.

Regarding the increase of TAT on transient accommodation occupancy, in 2009, Act 61 increased the TAT by one per cent per year for two consecutive years. Under Act 61, the current rate of TAT is 9.25% on the gross rental proceeds.

This increase, however, only applied to gross rental receipts received by hotels or timeshare owners who were renting out their units. The increased rates did not apply to timeshare owners occupying their units. This measure amends the tax rate for timeshare owners to conform to the 2009 rate increases applied to rental proceeds. The Department supports imposing the same rate on transient accommodation occupancy as on transient accommodation rental receipts. In addition, the Department recommends including the provision in HB 1092 modifying the definition of the base on which this tax is paid.

The revenue gain from increasing the rate on transient accommodation occupancy from 7.25% to 9.25% is estimated at \$3.0 million/year for FY 2012 to FY 2015.

This bill also places a cap on the amount of TAT that goes to the counties at \$101,978,000. The estimated revenue gain to general fund from this cap is as follows:

- \$10.0 million for FY 2012
- \$16.5 million for FY 2013
- \$23.3 million for FY 2014
- \$30.7 million for FY 2015.

The Department estimates this bill will result in a revenue gain to special fund of \$1.9 million/year for FY 2012 and thereafter, and a revenue gain to general fund as follows:

- \$13.3 million for FY 2012
- \$19.8 million for FY 2013
- \$26.6 million for FY 2014
- \$34.0 million for FY 2015.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White




Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

April 2, 2011

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF APRIL 4, 2011; TESTIMONY IN OPPOSITION TO SB 1186, SD2,
PROPOSED HD1, RELATING TO TRANSIENT ACCOMMODATIONS TAX**

Thank you for the opportunity to testify in opposition to this important measure. One of the purposes of this measure is to temporarily limit the Transient Accommodations Tax (TAT) revenues distributed to the counties. The proposed cap is approximately the same amount distributed in fiscal year 2009-2010, or \$101,978,000, but would allow the Director of Finance to lower this amount further should actual revenues fall below the cap.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

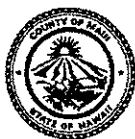
1. There is a clear correlation between the visitors' impact on county infrastructure and returning a fair share of the county-earned TAT revenue to the respective county government. As Maui County begins to see a rise in visitor counts, I am concerned that placing a ceiling of any kind on the distribution of TAT could hinder the County's ability to fully participate in any economic recovery experienced by the State.
2. A limit on TAT distribution would create an unfair imbalance as costs associated with an increase in visitor counts within a county would not be offset by a corresponding increase in revenues to that county. According to testimony submitted by the State Department of Taxation at the House Finance Committee's meeting of March 2, 2011, it is estimated that annual double digit percentage increases in revenue to the State could result should a limit on TAT revenue distribution to the counties be established. However, this increase in TAT revenue to the State fails to acknowledge the associated increase in expenditures in infrastructure and public safety costs that will undoubtedly fall to the counties.
3. Maui County's primary source of revenue is derived from real property taxes. Therefore, any limit placed on the amount of TAT revenues distributed to Maui County could unfairly burden property tax payers should there be an increased need for infrastructure improvements and public safety services as a result of increased tourism activity.

For the foregoing reasons, I oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

April 4, 2011

TO: Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Joseph Pontanilla, Council Vice-Chair

A handwritten signature in black ink that reads "Joseph Pontanilla".

DATE: April 4, 2011

SUBJECT: **TESTIMONY IN OPPOSITION TO SB 1186, SD2, Proposed HD1, RELATING TO
TRANSIENT ACCOMODATIONS TAX**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose SB 1186, SD2, Proposed HD1** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo. I urge you not to support this measure.

11:04:04:kbn/JP: SB 1186 SD2

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

April 4, 2011

TO: Honorable Marcus Oshiro, Chair
House Committee on Finance

FROM: Robert Carroll
Council Member, East Maui

DATE: Monday, April 4, 2011
At: 3:30p
Conference Room 308
State Capitol

SUBJECT: **Opposition to SB 1186, SD2, RELATING TO TRANSIENT ACCOMMODATIONS TAX**

I oppose SB 1186, SD2, for the reasons cited in testimony submitted by the Maui County Council Chair Danny Mateo, and urge you to oppose this measure.

Respectfully,

A handwritten signature in cursive script that reads "Robert Carroll".

Robert Carroll
Councilmember, East Maui

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATION, Tax on complimentary basis; increase tax on timeshares

BILL NUMBER: SB 1186, Proposed HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237D-2 to provide that the transient accommodations tax (TAT) of \$10 shall be imposed on every transient accommodation that is furnished at no charge, including transient accommodations furnished as part of a package or point program, between July 1, 2011 and June 30, 2015. This section does not apply to time share units.

Amends HRS section 237D-2 to impose an additional tax of 2% on the fair market rental of a time share vacation unit between July 1, 2011 and June 30, 2015. The revenues derived from the increase shall be deposited into the general fund.

Amends HRS section 237D-6.5 to provide that until June 30, 2015 the counties share of the transient accommodations tax revenues shall be 44.8% or \$101,978,000, whichever is less; provided that if based on the actual transient accommodations tax revenues derived during the fiscal year, the counties' share for the entire fiscal year is less than \$101,978,000, the state director of finance shall pay the counties an appropriately adjusted amount.

This act shall be repealed on June 30, 2015; provided that HRS sections 237D-2 and 237D-6.5, shall be reenacted in the form in which they existed on the day prior to the effective date of Act 61, SLH 2009.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: The legislature by Act 61, SLH 2009, increased the transient accommodations tax from 7.25% to 8.25% between 7/1/09 and 6/30/10 and to 9.25% between 7/1/10 to 6/30/15 with the proceeds attributable to the increase in the tax rate over 7.25% deposited into the general fund.

While this measure would impose a TAT of \$10 on every transient accommodation that is furnished on a complimentary or gratuitous basis, or otherwise at no charge, including transient accommodations furnished as part of a package, it appears that lawmakers believe that where accommodations are complimentary or accommodations are traded in a vacation club where no funds exchange hands, hotels should pay the TAT regardless of the fact that there is no revenue received. In many cases complimentary rooms are provided for familiarization tours or "fams" extended to travel agents, travel writers, VIP's, and meeting planners so that the hotel can sell its property to those who will be selling travel to their clients or who will be writing about a vacation in Hawaii. For these properties, such accommodations and amenities are charged against the hotel's marketing budget as it represents a cost of publicizing the property. Thus, no income is received from a source outside the hotel and, therefore,

there is no gross income against which the TAT can properly be charged. Thus, this proposal makes little sense for those types of occupancies. Note well that the rules promulgated by the tax department for the TAT more than 20 years ago recognized such complimentary rooms as not taxable.

Other accommodations provided for no charge are those donated to charities for silent auctions or for use by nonprofit organizations in hosting clients of that organization. These have included those who are reunited siblings of children in fosters care, those in need of critical medical treatment because it cannot be secured at a Neighbor Island facility or as part of a package of other hotel services such as a honeymoon suite in exchange for holding the reception in the hotel. In these cases, the accommodation is gratuitous for which no gross income is realized and, therefore, not subject to the TAT. To now impose the TAT on these accommodations jeopardizes the good will of the hotel with its guests.

In the case of exchanges within a hotel's vacation club, many properties already pay the tax on those amounts where there may be a differential between what was paid as TAT on the maintenance charges and the rate that would otherwise have been charge to a non-member renting the same accommodation. In other "points" or "rewards" programs, the hotel pays a portion of the rental paid by a participant - commonly about 4% or 5% - in the program into the program's "pot" as a credit - in points - to the participant's account. The general excise tax and the TAT are paid on the gross income from the rental by the program participant including this amount paid to the program "pot." When another participant "redeems" points by staying in the local hotel, the program credits the hotel with the commensurate number of points which are then offset with what the local hotel would have otherwise owed the program that month for guests who earned points by staying in the local hotel. Thus, the hotel receives no gross income from the redeeming participant, but pays both the general excise tax and the TAT on the amount received from a program participant who has stayed at the hotel and earned points for that stay.

So what is the value accruing to the hotel? The "rewards" program is designed to build brand loyalty, insuring the program participant returns to the same hotel brand in an effort to accrue "points" in the program. For Hawaii hotels, the benefit comes in the ancillary products of the property including meals and services. For the economy as a whole, it allows those who might otherwise not choose Hawaii as a visitor destination because of cost, distance, and time, to at least mitigate one of those barriers. While the room may not be generating general excise or TAT revenues, the other expenditures made by the redeeming participant generate general excise tax revenues in Hawaii stores, visitor activities and in restaurants.

Thus, to impose the TAT on non-existent income questions the integrity of the TAT which is supposed to be imposed on the gross income received from the rental of accommodations to transients who occupy the accommodation for less than 180 days. Before lawmakers take action on what is unfounded perceptions, more research is needed to truly understand how the hospitality industry operates. This measure reflects a lack of understanding of industry practice.

Finally, with respect to the taxation of such "rewards" points, it should be noted that the tax department issued guidance to some taxpayers several years ago that such rooms were not taxable, then recently, the department advised that it was reversing that guidance and applying the tax retroactively to the date when they believed the tax should have been paid. Application of the tax to a date prior to reversing their position raises serious questions about reliance on guidance by the tax department, possibly

creating a litigious situation.

The legislature by Act 61, SLH 2009, increased the transient accommodations tax from 7.25% to 8.25% between 7/1/09 and 6/30/10 and to 9.25% between 7/1/10 to 6/30/15 with the proceeds attributable to the increase in the tax rate over 7.25% deposited into the general fund. This measure would impose an additional tax of 2% in addition to the TAT on resort time share units between July 1, 2011 and June 30, 2015 and also provide that the additional revenues derived be deposited into the general fund.

Apparently in their rush to raise additional revenues for the general fund by raising the TAT rate on hotel rentals, lawmakers overlooked timeshare rentals which are taxed under a different section of the TAT law than all other hotel rentals. This measure proposes to bring the taxation of time share rentals into line with all other transient accommodation rentals. Although the rate increase on other hotel rentals was phased in, the rate currently stands at 9.25%. Thus, this proposal would make the two percentage point increase in one fell swoop, rising to 9.25% on time shares as of July 1 of this year. It should be noted once again this rate increase is solely to shore up the state general fund as the proceeds from the rate increase will accrue to the state general fund.

Although this may appear to be a move to maintain parity, what is most disconcerting is that there is the great possibility that lawmakers may become accustomed to the increased revenues as the visitor industry and economy improves. Will lawmakers consider making this rate increase and siphoning of the TAT revenues to the general fund permanent? Consider that as the economy and room rates improve, the general fund will once again become flush with cash. Lawmakers will take this good fortune as a reason to once more spend with abandon. To avoid this, lawmakers need to impose discipline on their spending of all the money they can get their hands on with the realization that this practice is what got the state into the trouble it is now trying to address. Unfortunately, what policy makers have failed to realize is that the more they extract from the economy in taxes and fees the more economic performance declines. As economic performance declines so do tax revenues.

The proposed measure would temporarily limit the counties' share of the TAT revenues to the amount they received in fiscal 2010. It should be remembered that in a down economy, taxpayers are examining their spending priorities and paring back their spending - a concept that state and local governments have to adopt to regain control of their finances. At a time when taxpayers are doing more with less, government should do the same.

What this proposal underscores is the fact that both state and county governments have grown well beyond their means. The counties have justified their share of the TAT by rationalizing that the funds go to pay for the impact visitors have on county facilities and services; however, at the same time all four counties have managed to impose much higher tax rates on hotel/resort real property and in one case a special rate on resort time share property. The counties must be held accountable for their fiscal antics which have led homeowner real property taxpayers into believing they can have more county services with little or no increase in their tax burden.

Both levels of government need to resize their operations and set priorities for what limited resources taxpayers can share with government.



American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

April 4, 2011

TO: House Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

FROM: Daniel Dinell
ARDA-Hawaii, Chair

DATE: Monday, April 4, 2011
Conference Room 308
3:30 p.m.

RE: SB 1186 RELATING TO THE TRANSIENT ACCOMMODATIONS TAX
Proposed HD1

Chair Oshiro and Members of the Committee:

ARDA-Hawaii is the local chapter of the American Resort Development Association (ARDA), the national timeshare trade association, comprising of over 20 local members with 45 properties statewide. ARDA-Hawaii strongly opposes Section 2 (e) (2) of SB 1186 which proposes to increase the transient accommodations tax (TAT) rate for timeshare units from 7.25% to 9.25% from July 1, 2010 to June 30, 2015. As stated in previous testimony, ARDA-Hawaii believes the premise for the application of this tax is flawed. No real property owner in the State of Hawaii or in the United States is assessed a tax for occupying the real property that they own. Timeshare owners alone have this distinction.

Hawaii's timeshare industry currently accounts for thirteen percent of the State's lodging inventory with 10,000 timeshare units. Timeshare has had consistent occupancy rates, even during the current tough economic times. In 2009, the average occupancy rate for all timeshare units in Hawaii was approximately 91%, where the average hotel occupancy room rate was slightly over 66%. This has made our industry a vital partner and a stable component of the visitor industry in Hawaii.

Timeshare owners are Hawaii property owners who have made a long-term commitment to Hawaii by owning Hawaii real estate. They and their guests are dependable, consistent, and stable visitors who bring substantial tax dollars to Hawaii and continue to come even during economic downturns. This commitment is extremely important especially in light of the recent tragedies in Japan.

In 2009 timeshare owners paid over \$40 million in taxes to the state through the GET and TAT. They pay a yearly maintenance fee including real property taxes, GET and other fees. I would also like to point out that timeshare units when rented on a transient basis by non-Owners or used for marketing purposes by developers pay the exact same TAT rates as hotel units.

You also may be interested to know that there are over 6,000 Hawaii residents who own and use their timeshare units in Hawaii would also be directly impacted by this bill. As drafted, this section will unfairly impact a very specific portion of Hawaii property owners who choose to visit our state on an annual basis and contribute to Hawaii's economy.

We believe this legislation is detrimental to timeshare owners as well as Hawaii's visitor and construction industries. Developers have plans to build more than 1,000 timeshare units in Hawaii over the next couple of years investing over half a billion dollars in the state. A tax like this will have a chilling effect on decisions to invest in the State since there will be concerns that sales will slow as maintenance fees dramatically increase. Instead of creating disincentives to spend discretionary dollars in Hawaii, let's look for ways to help and strengthen this very important segment of our visitor industry.

In addition to potential increases in the TAT proposed in this bill, the timeshare industry is currently fighting increases in the real property tax in Maui County of 40%. ARDA-Hawaii believes that the timeshare industry and owner has been a loyal and committed member of this community and has in some instances paid more than their fair share of taxes. However, their loyal support is not without limits. As costs escalate especially during these tough economic times, many are starting to find Hawaii no longer affordable.

If Hawaii wants to continue to enjoy the loyalty and long term benefit of timeshare owners, it must ensure that the tax burden imposed on these owners are fair and reasonable. Thank you for allowing me to present testimony on this important matter.

TIMESHARE WITH ALOHA



c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

April 4, 2011

TO: House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

FROM: ARDA Resort Owners Coalition

DATE: April 4, 2011
Conference Room 308
3:30 pm

RE: **SB 1186 RELATING TO THE TRANSIENT ACCOMMODATIONS TAX
PROPOSED HD1**

Chair Oshiro and Members of the Committee:

The Resort Owners' Coalition of the American Resort Development Association (ARDA-ROC) is a non-profit organization advocating on behalf of timeshare owners and managers and dedicated to preserving and protecting the rights of the consumers who purchase timeshare as well as their governing home owners associations. Unlike other types of condominium ownership, timeshare owners are often not able to vote in the jurisdictions in which they hold a real estate interest. ARDA-ROC was formed to fight unbalanced "tax the visitor not the voter" legislation.

In 1998 when the original TAT on maintenance fees was enacted, ARDA-ROC opposed the legislation but ultimately accepted the tax to preserve harmony in the visitor industry in Hawaii. As you may or may not be aware, Hawaii is the only state in the United States which levies a tax on timeshare maintenance fees, essentially charging a tax for an owner of real estate to stay in his or her own property. However, with the suggestion of any potential increase in this one-of-a-kind tax, ARDA ROC has the fiduciary responsibility to all timeshare owners to fight this unprecedented tax.

Earlier this year, ARDA-ROC opposed HB 809 which proposed to increase the transient accommodations tax (TAT) rate for timeshare units from July 1, 2010, to June 30, 2015, from 7.25% to 9.25%. ARDA ROC opposes Section 2 (e) (2) of SB 1186 which would increase an already unprecedented tax on timeshare owners and is not backed by good public policy.

As some general background, in 2009, the timeshare industry accounted for approximately \$40 million in tax revenue to the state of Hawaii (e.g. property tax, conveyance taxes, maintenance fees, and GET). That includes the full TAT that is paid on timeshare units when they are rented to non-owners and the TOT that is paid when an owner or exchange user stays in a unit (a tax that no other property owner in Hawaii must pay). Additionally, as real property owners, timeshare owners are obligated to pay a maintenance fee, which includes real property taxes (in some cases such as Maui at a much higher formula than residential or commercial).

We often hear that the timeshare industry, including timeshare owners, do not pay its fair share of taxes. However, we have never been provided with any empirical data to back up that claim. So, with the help of Hospitality Advisors, LLC, we performed our own research to see if those claims had any merit. What we found was that not only does the timeshare industry pay its fair share of taxes, but on a unit to unit comparison, a timeshare unit also pays more taxes than a comparable hotel unit.

Set forth below is a unit by unit comparison of the taxes paid by the average timeshare unit and a comparable hotel unit as prepared by Hospitality Advisors LLC:

Comparison of Hotel and Timeshare Estimated 2009 Taxes Paid per Unit

State of Hawai'i	Taxes Paid per Unit ⁱ			
	Hotels	Timeshare ⁱⁱ	\$ Difference	% Difference
General Excise Tax ⁱⁱⁱ	\$2,000	\$2,350	\$350	18%
Real Property Tax ^{iv}	\$2,570	\$5,480	\$2,910	113%
Transient Accommodation Tax ^v	\$3,930	\$740	-\$3,190	-81%
Transient Occupancy Tax ^{vi}	<i>Not applicable</i>	\$1,350	<i>Not applicable</i>	<i>Not applicable</i>
TOTAL	\$8,500	\$9,920	\$1,420	17%

Source: Hospitality Advisors LLC, Smith Travel Research, survey respondents

ⁱ Rounded to the nearest ten dollars (\$10).

ⁱⁱ Data for timeshare units were based on a survey of the Hawai'i Timeshare industry, representing a sample size of 91.6 percent of the timeshare units in the State. Based on the data provided by participants, a weighted estimation model was used to estimate the taxes paid by the non-responder properties. We note that information provided to us was not audited nor verified and is assumed to be correct for the purposes of this engagement.

ⁱⁱⁱ General excise taxes for hotels are based on 2010 transient accommodation room revenues and do not include revenues for food & beverage, retail, or any other hotel revenue. General excise taxes for timeshares are based on 2009 maintenance fees and 2009 transient accommodation revenues for room nights used as hotel.

^{iv} Real property taxes for hotels represent 2009 HOST data from Smith Travel Research. Real property taxes for timeshare are based on 2009 taxes paid by the timeshare industry.

^v Transient accommodation taxes for hotels are based on 2010 room revenues. Transient accommodation taxes for timeshares are based on 2009 transient accommodation revenues for room nights used as hotel.

^{vi} Transient occupancy taxes for timeshare are based on the fair market rental value for 2009 room nights used for occupancy by timeshare owners and exchangers.

So, it is quite clear to us that timeshare owners pay their fair share of taxes, especially in light of the tax contributions of hotel guests. This is not to say that the hotel industry is not paying its fair share; but instead, the statistics show that the timeshare industry generates significant revenues for the State in the form of GET, TAT and TOT, as well as large contribution to the Counties via the payment of real property taxes.

In addition, the two areas where timeshare owners pay the most taxes (real property and TOT) have built-in increases almost guaranteeing year to year growth. For instance, for every year in which property values increase, so does the amount of money timeshare owners pay in property taxes. And every year as more people purchase timeshares, more people are paying TOT thus increasing overall collections. And every year maintenance fee assessments increase (due to

both the increase in property taxes, which are included in the maintenance fees, general increases in the costs of goods and labor), the State sees an increase in collections.

For these reasons ARDA-ROC believes that any increase in the TAT rate as applied to timeshare owners' maintenance fees are not warranted.

Finally, we ask why the legislature would want to increase taxes on one of the only growth markets in Hawaii, threatening to reduce job creation and tax collections. According to research conducted by Hospitality Advisors generated from information provided to it from the timeshare industry in Hawaii, the timeshare industry will potentially account for over \$550 million dollars in construction spending and will likely generate more than 1,200 construction jobs through 2013. Set forth below is information from the report that helps to provide a snapshot of the potential financial impacts that the industry will have on the economy in Hawaii. We believe any increase in taxes on either the industry itself or those who purchase and use the product threatens to halt some if not a significant portion of this growth, which would be negative for both in the industry and timeshare owner base alike.

ATTACHMENT A

Economic Impact from the Construction and Operation of New Timeshare Units in 2011 through 2013

Table 1 Construction Budgets for Timeshare Projects (2011-2013)

(\$ millions)	State	Maui	O'ahu	Kaua'i	Big Island
Construction Budgets for New Timeshare Units	\$ 560.0	\$ 225.0	\$ 78.0	\$ 165.0	\$ 92.0
Renovation and Capital Expenditures for Existing Timeshare Units	\$ 81.5	\$ 30.1	\$ 12.9	\$ 34.0	\$ 4.6
Total	\$ 641.5	\$ 255.1	\$ 90.9	\$ 199.0	\$ 96.6

Source: Hospitality Advisors LLC

Table 3 New Jobs and Tax Revenues from the Operations for New Timeshare Units (2011 - 2013)

	State	Maui	O'ahu	Kaua'i	Big Island
Number of New Timeshare Units Added to Supply	1,190	130	730	130	200
Total Timeshare Sales (\$ millions)	\$ 1,204.3	\$ 434.3	\$ 311.0	\$ -	\$ 459.0
New Timeshare Jobs	1,250	140	770	20	320
Taxes Generated from Timeshare Operations (\$ millions)					
General Excise Tax	\$ 1.8	\$ 0.3	\$ 1.1	\$ -	\$ 0.4
Timeshare Occupancy Tax	\$ 0.9	\$ 0.1	\$ 0.7	\$ -	\$ 0.1
Transient Accommodation Tax	\$ 0.2	\$ 0.2	\$ -	\$ -	\$ -
Conveyance Tax	\$ 1.8	\$ 0.7	\$ 0.5	\$ -	\$ 0.7
Real Property Tax	\$ 19.8	\$ 3.0	\$ 7.7	\$ -	\$ 9.0
Total Tax	\$ 24.6	\$ 4.3	\$ 10.0	\$ -	\$ 10.2

Source: Hospitality Advisors LLC, Belt Collins Hawaii, Ltd.

Notes: Composite sales and tax estimates reflect only those properties that provided timeshare sales data. Therefore the estimates provided in this schedule do not reflect the full impact from all pipelines developments to be completed during 2011 to 2013.

Year after year, proposals have been introduced to increase either the TAT rate or the base calculation on the TAT that timeshare owners pay on their maintenance fees. And for years, ARDA-ROC and timeshare owners have had to contend with these increases. Timeshare owners in Hawaii are already burdened with some of the highest taxes in the country and they do not deserve any additional increases.

In conclusion, this legislation not only represents a potential financial disaster for timeshare owners, especially to the nearly 6,000 Hawaii residents who own timeshare in Hawaii, but it is also horrible policy for Hawaii and its overall visitor industry. Timeshare owners are real property owners, and while a hotel guest can simply cancel their reservation if they chose not to pay the increased TAT, a timeshare owner continues to have a legal obligation to pay maintenance fees and the TAT levied upon that amount. The statistics show that the timeshare owner already pays their fair share of taxes especially in comparison to the hotel guest and has made a significant investment in pre-purchasing of lifetime of vacations when they first bought the timeshare interest.

While ARDA-ROC remains supportive of the hospitality and visitor industry in Hawaii, if the trend at the legislature is to continue looking for additional tax dollars from timeshare owners we will have to research all options to defeat these measures, including a potential suit against the State of Hawaii to eliminate this tax altogether.

Thank you for allowing us the opportunity to present testimony on this important matter.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH
CHRISTINE OGAWA KARAMATSU

ALII PLACE, SUITE 1800 • 1099 A LAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cnoh@goodsill.com
ckaramatsu@goodsill.com

TO: Representative Marcus R. Oshiro
Chair, Committee on Finance
Via Facsimile: 586-6001

FROM: Mihoko E. Ito

DATE: April 3, 2011

RE: **S.B. 1186, S.D. 2, Proposed H.D. 1 – Relating to the Transient Accommodations Tax**
Hearing: Monday, April 4, 2011 at 3:30 p.m., Agenda #2

Dear Chair Oshiro and Members of the Committee on Finance:

I am Mihoko Ito, testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its resorts on the Islands of Kauai, Oahu, and Hawaii, such as the Wyndham at Waikiki Beach Walk.

Wyndham Worldwide respectfully **opposes** the portion of S.B. 1186, S.D. 2, Proposed H.D. 1, which temporarily increases the tax rate on resort time share vacation units by 2%.

A recent analysis done by Hospitality Advisors for the American Resort Development Association shows that overall, resort time share owners already pay more taxes per unit than a hotel. An increase in the rate would only further exacerbate the discrepancy.

While a 2% increase seems small, it actually amounts to a 27% increase to what a timeshare owner already pays on his week.

While we appreciate that the state is facing budget difficulties, we respectfully submit that increasing the transient accommodations tax on timeshares is an ill-advised solution.

April 3, 2011

Page 2

Timeshares have significantly helped to buffer the impact of the ailing visitor industry, providing an over 90% occupancy rate in 2009. Because timeshare accommodations are pre-paid, timeshare owners who travel to Hawaii spend more discretionary income on their visits. Timeshare owners own a real property interest, and are already paying property taxes in addition to maintenance fees. Furthermore, many timeshare owners are also Hawaii residents who are already paying other taxes and fees.

In short, timeshare owners already bring substantial tax dollars to Hawaii. Increasing the price of owning a timeshare in Hawaii may ultimately contribute to a visitor decline. If taxes on timeshare owners continue to rise, timeshare owners may ultimately decide to vacation elsewhere. Rather than contribute to the visitor decline, efforts should be made to continue to promote tourism and attract visitors, including timeshare owners, to Hawaii.

Finally, we note that there may be issues regarding the overall legality of imposing the transient accommodations tax upon timeshare owners, based upon the maintenance fees they pay.

For these reasons, we respectfully oppose the portion of the bill that increases the transient accommodations tax on resort time share vacation units and ask that it be removed. Thank you very much for the opportunity to submit testimony.

**Committee on Finance
Hearing
Monday, April 4, 2011, 3:30 p.m.
Conference Room 308**



Representative Marcus R. Oshiro, Chair

**Testimony on SB1186, SD 2, Proposed HD1
Relating to Transient Accommodations Tax**

Dear Chair Oshiro and Members of the Committee:

My testimony is in OPPOSITION of SB1186, SD2, Proposed HD1. My name is Lynn McCrory and I am the President of PAHIO Development, Inc. We are a locally owned and operated time share development company on the island of Kauai.

This bill increases the Transient Accommodations Tax for the timeshare owner who occupies a unit from 7.25% to 9.25% for the period July 1, 2011 to June 30, 2015. Hawaii is the only state that taxes an owner for the occupancy of their purchased unit. There is no tax on the condominium unit when an owner occupies their unit. The time share owner has paid for the bricks and mortar (the CIP), and then pays an annual maintenance fee to maintain the unit, just as a condominium unit owner does. However, the condominium owner does not pay any tax on their use of their unit/occupancy. When the unit is rented out, the guest using the unit pays the 9.25% tax that any hotel guest would pay, as it is the same principal.

It is clear that the State has serious financial issues that must be resolved. Increasing the tax on the industry that is the only tourism industry that has built resorts in Hawaii in the last five plus years, and more than likely will be the only industry building resorts in the next ten years, does not make sense. Continuing, and now proposing to increase the TAT, increases risk, and risk is one very key factor that stops the building of resorts.

I humbly ask for your consideration for OPPOSITION to SB1186, SD2, Proposed HD1.
Mahalo!

Me ke aloha pumehana
With warm aloha,

PAHIO DEVELOPMENT, INC.

A handwritten signature in black ink, appearing to read "Lynn P. McCrory".

Lynn P. McCrory
President

C: PMCI

STARWOOD

VACATION OWNERSHIP

9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

April 4, 2011

TO: Honorable Marcus Oshiro, Chair
Honorable Marilyn Lee, Vice Chair
House Committee on Finance

FR: Robin Suarez, Vice President/Associate General Counsel, Starwood Vacation Ownership

RE: SB 1186, SD2, Proposed HD1 –Transient Accommodations Tax – OPPOSE
Finance Committee Agenda #2, Conference Room 308 – 3:30 PM

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

My name is Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, (“SVO”). I am testifying on behalf of SVO in opposition to SB 1186, SD2 Proposed HD1, Relating to the Transient Accommodations Tax (“TAT”).

We are particularly concerned regarding the proposed HD1 provisions which would:

1. Levy a minimum TAT of \$10/day on all hotel rooms that are furnished to a visitor without imposing a cash charge, not including transient accommodations furnished as part of a tour package or points program.
2. Add 2% increase to the rate of the Transient Occupancy Tax (“TOT”) beginning on July 1, 2011, to June 30, 2015.

We oppose these changes for the following reasons:

1. Minimum TAT on Complementary Rooms

Because Hawai'i competes with vacation destinations worldwide, complementary and budget-priced rooms are marketed for various reasons from promotions to reach travel writers and visitor industry marketers. Starwood Hotels and Resorts and Starwood Vacation Ownership help to market various products in the state from vacation resorts to local restaurants and activities. These promotional efforts provide valuable incentives which in turn help to generate more interest and sales for hospitality industry.

Starwood also donates rooms to assist local charities including our public schools that are taking budget cuts to help bring in much needed income.

Additionally, we provide affordable “stay-cations” for our kama'āina, and budget-friendly options for local business travelers. A minimum TAT will disproportionately impact our kama'āina, rates.

Overall, a minimum TAT would increase costs to hotels and to the state for complementary rooms.

2. Temporary 2% Increase in TOT Adversely Impacts Timeshare Industry

One might assume these are small changes that have an incremental affect on timeshare owners. But they are not. Timeshare owners are unique from the average hotel guest. The average timeshare owner stays longer and returns year after year. Owning a timeshare is like owning a condo where the owner must pay real estate taxes and maintenance and management fees. In addition they pay conveyance taxes and general excise taxes.

Timeshare resorts experience high and consistent rates of occupancy and customer satisfaction. In addition to providing traditional resort operations jobs similar to hotel projects, timeshare resorts add high skilled and high compensated sales and marketing jobs. As such, timeshare resorts represent a valuable and diverse component of Hawai'i's important tourism market. In 2009, timeshares employ nearly 4,500 employees statewide.

Timeshare properties are good employers, are good for the community and pay their fair share of taxes. As employers, we work diligently to provide stable employment and have not laid off any employees during this unprecedented period of recession. In fact, we have continued to hire as our occupancy rates average around 95%.

In this difficult economic recovery period, timeshare property owners and employees should not be penalized by increased tax burdens. Higher tax bills could lead to buyers to avoid Hawai'i for purchases, or cause existing timeshare owners to sell, or even worse, fall into foreclosure. During the 2008 and 2009 economic recession we experienced much higher foreclosure rate from timeshare owners giving up their properties because they can no longer afford to pay their fees.

Many of you have heard from our owners and our employees that these proposed changes will make visiting Hawai'i more expensive at a time when the state should be encouraging more travel. With destination resort markets competing worldwide, owners have a choice and will move where the market is less burdensome.

For these reasons, we respectfully request you to defer action on this bill.

STARWOOD
HOTELS & RESORTS WORLDWIDE, INC.

April 4, 2011

TO: Honorable Marcus Oshiro, Chair
Honorable Marilyn Lee, Vice Chair
House Committee on Finance

FR: Keith Vieira, Senior Vice President of Operations
Starwood Hotels and Resorts, Hawaii and French Polynesia

RE: SB 1186, SD2, Proposed HD1 –Transient Accommodations Tax – OPPOSE
Finance Committee Agenda #2, Conference Room 308 – 3:30 PM

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

My name is Keith Vieira, senior vice president of operations for Starwood Hotels and Resorts in Hawai'i and in French Polynesia. Thank you for the opportunity to testifying on behalf of Starwood Hotels and Resorts in opposition to SB 1186, SD2 Proposed HD1, Relating to the Transient Accommodations Tax ("TAT").

We are particularly concerned regarding the proposed HD1 provisions which would:

1. Levy a minimum TAT of \$10/day on all hotel rooms that are furnished to a visitor without imposing a cash charge, not including transient accommodations furnished as part of a tour package or points program.
2. Add 2% increase to the rate of the Transient Occupancy Tax ("TOT") beginning on July 1, 2011, to June 30, 2015.

We oppose these changes for the following reasons:

1. Minimum TAT on Complementary Rooms

Because Hawai'i competes with vacation destinations worldwide, complementary and budget-priced rooms are marketed for various reasons from promotions to reach travel writers and visitor industry marketers. Complementary rooms are used by the hospitality industry to attract meeting planners to bring events to the state, to educate and encourage travel opportunities for book Hawai'i vacations for clients, and to give travel writers the opportunity to publish and produce stories about Hawai'i as a meeting and vacation destination. Complementary rooms are also often used by the state to attract film crews to the islands.

Starwood Hotels and Resorts also donate rooms to assist local charities including our public schools that are taking budget cuts to help bring in much needed income.

Additionally, we provide affordable "stay-cations" for our kama'āina, and budget-friendly options for local business travelers. A minimum TAT will disproportionately impact our kama'āina, rates.



Overall, the impact of this proposal would increase costs to hotels and to the state for complementary rooms and could have a domino effect to our hospitality industry. We envision that if hotel rooms are subject to a minimum TAT this will result in additional charges to our marketing budget, which in turn could reduce marketing in other areas to compensate for the costs. Decreased marketing could have a diminishing effect on visitor arrivals and overall tax revenue to the state.

2. Temporary 2% Increase in TOT for Timeshare Properties

One might assume these are small changes that have an incremental affect on timeshare owners. But they are not. Timeshare owners are unique from the average hotel guest. The average timeshare owner stays longer and returns year after year. Owning a timeshare is like owning a condo where the owner must pay real estate taxes and maintenance and management fees. In addition they pay conveyance taxes and general excise taxes.

Timeshare resorts experience high and consistent rates of occupancy and customer satisfaction. In addition to providing traditional resort operations jobs similar to hotel projects, timeshare resorts add high skilled and high compensated sales and marketing jobs. As such, timeshare resorts represent a valuable and diverse component of Hawai'i's important tourism market.

3. Conclusion:

Our concern is that the imposition of any new taxes and fees on the visitor industry would not result in the generation of more revenues for the state as intended and may have perverse consequences by causing a visitor to choose another less costly destination than Hawai'i.

For these reasons, we respectfully request you to defer action on this bill.

April 4, 2011

TO: Finance Committee
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

FROM: Mitchell A. Imanaka

DATE: Monday, April 4, 2011
Conference Room 308
3:30 p.m.

RE: **SB 1186 SD2HD1, Relating to Transient Accommodations Tax**

Chair Oshiro, Vice Chair Lee and Members of the Committee:

I strongly oppose SB 1186 SD2HD1, which increases the rate of the transient accommodations tax beginning on July 1, 2011 from 7.25% to 9.25% of the fair market value. Earlier this Legislative Session, we submitted testimony in opposition to HB 809 and HB 1163 which proposed to increase the transient accommodations tax through an increase of the transient accommodations tax and an increase in the base maintenance fee calculation to determine the fair market value. Increasing the transient accommodations tax in Hawaii will cripple the *secure economic base* that the Hawaii timeshare industry has developed in Hawaii.

Timeshares already pay more than their fair share in taxes, generating over **\$87.3 million in taxes.**¹

Tax	Tax Revenue
Real Property Tax	\$47,100,000
Conveyance Tax	\$400,000
General Excise Tax	\$20,400,000
Transient Accommodations Tax (timeshare)	\$12,200,000
Transient Accommodations Tax (transient)	\$7,300,000
Total Tax Revenue	\$87,300,000

Timeshare developers continue to energize the economy, with capital expenditures by timeshare developers, including new construction, totaling **\$138.7 million in 2009**, and an additional **\$64.3 million was anticipated in 2010.**²

Also, there are more timeshare projects on the horizon, with an **anticipated 1,190 new timeshare units to be developed,**³ and it is anticipated that the construction budgets for

¹ State of Hawaii Timeshare Industry 2009 Supplemental Report prepared by Hospitality Advisors LLC dated January 4, 2011 (2009 Supplemental Timeshare Industry Analysis").

² Analysis of the State of Hawaii Timeshare Industry prepared by Hospitality Advisors LLC dated August 13, 2010 ("2009 Timeshare Industry Analysis").

³ Hospitality Advisors LLC and Belt Collins Hawaii, Ltd.

new timeshare units, and renovation and capital expenditures for existing timeshare units will total approximately **\$641.5 million in 2011.**⁴ Further, it is anticipated that the new timeshare operations will pay approximately **\$24.6 million to the State in taxes.**

The economic impact of the new timeshare developments and renovation to existing projects will also **create an additional 1,250 jobs** in the State,⁵ in addition to the estimated **4,459 employees** that the timeshare industry employed in 2009, including 3,980 full time employees with a **total payroll of \$293.4 million.**⁶ Further, the new timeshare projects and renovation projects will create approximately **5,700 construction-related jobs in the State,** with construction-related **wages totaling approximately \$300 million.**⁷ All of the positive economic impacts of the development of additional timeshare projects may be jeopardized with the proposed increase in the transient accommodations tax.

As evidenced by the foregoing, the Hawaii timeshare industry has proven to be a vital industry to our State's economy, and currently show signs of growth. This industry should be *supported* and *nurtured* so that it can continue to grow and *support the future economic growth of the State of Hawaii, and avoid budget shortfalls in the future.* An increase in the transient accommodations tax would jeopardize this growing and vital industry. As such, we respectfully ask that you hold this measure. Thank you.

⁴ Hospitality Advisors LLC.

⁵ Hospitality Advisors LLC and Belt Collins Hawaii, Ltd. Note: Composite sales and tax estimates reflect only those properties that provided timeshare sales data. Therefore the estimates provided in this schedule do not reflect the full impact from all pipeline developments to be completed during 2011 to 2013.

⁶ 2009 Supplemental Timeshare Industry Analysis.

⁷ Hospitality Advisors LLC and Belt Collins Hawaii, Ltd. Note: Composite sales and tax estimates reflect only those properties that provided timeshare sales data. Therefore the estimates provided in this schedule do not reflect the full impact from all pipeline developments to be completed during 2011 to 2013.

Charles A. Ratliff
15 East Big Sky Drive
Hampton, Virginia 23666

April 3, 2011

My wife and I are valued members with the Hilton Grand Vacation Club. In 2007, while vacationing at Hilton Village in Oahu, we fell in love with the Grand Waikakian Tower and as a result transferred our ownership from Las Vegas to Hawaii. We are ecstatic to be owners of the property and vacation in Hawaii every other year.

With this recent information of the Timeshare Owner's Tax (TAT) increase via HBs 809, 1163, 1092, SB 1319, and now SB 1186 SD2, I strongly object, disagree, and I am very dissatisfied with these proposals. I consider Hawaii my second home and I am a loyal and caring visitor to these islands and strongly feel part of this community. To be faced with significant TAT increases, as suggested, as much as 300% is disturbing and alarming. I already pay a significant amount in maintenance fees and taxes, some of the highest in the nation.

To date I have invested an enormous amount of money in the Hawaiian economy and all worthwhile, but enough is enough! Each time that my wife and I visit the island, we always bring family. So as returning visitors, we have contributed a lot to the local economy over the years. Again, I relocated my ownership to Hawaii but now I question that decision and will consider other relocation options if this tax increase issue is not resolved. I could have chosen to purchase my timeshare elsewhere but chose Hawaii because I love the sense of pride, culture, Aloha atmosphere, the beautiful scenery, and people, and now I feel singled out and taken advantage of over this situation. Nowhere else in the United States would I be facing this situation, since nowhere else is such a tax imposed for occupying a unit I already paid for and own. Although reluctant, perhaps it is time to consider going elsewhere for my vacations.

I really hope you weigh-in on this situation, understand the ramifications, and support revoking HBs 809, 1163, 1092, SB 1319, and SB 1186 SD2.

Thank you very much for your time and cooperation.

Respectfully,
Charles A. Ratliff

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 03, 2011 10:02 AM
To: FINTestimony
Cc: fsporter@msn.com
Subject: Testimony for SB1186 on 4/4/2011 3:30:00 PM

Testimony for FIN 4/4/2011 3:30:00 PM SB1186

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Kenneth & Faye Porter
Organization: Individual
Address:
Phone:
E-mail: fsporter@msn.com
Submitted on: 4/3/2011

Comments:

As timeshare owners, we pay state property taxes already, plus maintenance fees and the existing TAT. We purchase local goods and services, contribute significantly to a local church when we visit for two months each year, and frequent local restaurants and and pay for our participation in local activities. Since tourism is a major contributor to the economy, it is strange that the state government is deliberately trying to discourage it. As time share owners, we feel we are certainly being discriminated against and would hope that you take into consideration the fact that you may be contributing to a reduction in tourism which may very well reduce the state coffers instead of growing them.

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Monday, April 04, 2011 3:55 AM
to: FINTestimony
Cc: jrobitaille23@aol.com
Subject: Testimony for SB1186 on 4/4/2011 3:30:00 PM

Testimony for FIN 4/4/2011 3:30:00 PM SB1186

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: John D. Robitaille
Organization: Individual
Address:
Phone:
E-mail: jrobitaille23@aol.com
Submitted on: 4/4/2011

Comments:

This bill would be a hardship to all full time and particularly part time condo owners currently visiting and providing revenue to the State of Hawaii. Any increases in taxes would discourage current and future investors, vacationers and others providing taxed based revenues.