

**SB 1186**

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  
INTERIM DIRECTOR OF TAXATION  
RANDOLF L. M. BALDEMOR  
DEPUTY DIRECTOR

## SENATE COMMITTEE ON TOURISM

### TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING SB 1186 RELATING TO TRANSIENT ACCOMMODATIONS TAX

TESTIFIER: FREDERICK D. PABLO, INTERIM DIRECTOR OF  
TAXATION (OR DESIGNEE)  
COMMITTEE: TSM  
DATE: FEBRUARY 10, 2011  
TIME: 1:20pm

POSITION: COMMENTS

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This measure assesses the transient accommodations tax (TAT) on the fair market value of complimentary rooms or rooms otherwise provided at no charge.

The Department of Taxation (Department) does not oppose a minimum tax amount on all transient accommodations, such as the \$10 per day minimum.

**SUGGESTED MODIFICATIONS**—The Department would prefer another means of accomplishing this bill's objective. First, the Department suggests eliminating the reference to "fair market value" as that phrase relates to hotel rooms. Hotel room values fluctuate almost like a stock based upon supply and demand. Rather than debate fair market value, it is best to have a simple minimum rate for all room types.

Also, the Department suggests simplifying the measure by amending the definition of "transient accommodations" to expressly refer to the provision of rooms on a complimentary basis, gratuitously, or at no charge. Also, the Department suggests further simplifying the measure by assessing the

minimum fee in subsection (a), which will not repeal in 2015.

Suggested language is as follows:

SECTION 1. Section 237D-1, Hawaii Revised Statutes, is amended by amending the definition of "transient accommodations" to read as follows:

"Transient accommodations" means the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, condominium property regime or apartment as defined in chapter 514A or unit as defined in chapter 514B, cooperative apartment, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients for consideration, on a complimentary or gratuitous basis, or otherwise at no charge, including as part of a package or in exchange for no monetary consideration."

SECTION 2. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is levied and shall be assessed and collected each month a tax of:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;
- (2) Six per cent for the period beginning July 1, 1994, to December 31, 1998; and
- (3) 7.25 per cent for the period beginning on January 1, 1999, and thereafter;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations[-]; provided that, beginning July 1, 2011, the tax assessed and collected shall be the greater of \$ per day per unit or the amount calculated using the rate specified in paragraph (3).

(b) There is levied and shall be assessed and collected each month an additional:

- (1) One per cent for the period beginning July 1, 2009, to June 30, 2010; and

(2) Two per cent for the period beginning July 1, 2010, to June 30, 2015;  
on the gross rental or gross rental proceeds derived from furnishing transient accommodations. The rate levied and assessed under this subsection shall be additional to the rate levied and assessed under [~~section 237D-2(a)(3).~~] subsection (a)."

**REVENUE GAIN**—This measure will result in a revenue gain as follows:

- General Fund: \$300,000 for FY 2011 and thereafter;
- Special Funds: \$1.9 million for FY 2011 and thereafter.



NEIL ABERCROMBIE  
Governor

MIKE MCCARTNEY  
President and  
Chief Executive Officer

# Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
Website: [www.hawaiitourismauthority.org](http://www.hawaiitourismauthority.org)

Telephone: (808) 973-2255  
Fax: (808) 973-2253

Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**S.B. 1186**  
**Relating to the Transient Accommodations Tax**

Senate Committee on Tourism  
Thursday, February 10, 2011  
1:20 p.m.  
Conference Room 224

The Hawai'i Tourism Authority (HTA) offers the following comments on S.B. 1186, which proposes to levy and assess a transient accommodations tax (TAT) on complimentary rooms.

The TAT proposed by S.B. 1186 is the greater of \$10 per day or the sum of the 7.25 percent TAT imposed by subsection 237D-2(a)(3) and the additional 2 percent imposed by subsection 237D-2(b)(2) until 2015.

The HTA is tasked with marketing and promoting Hawai'i as a visitor destination. In this global competitive environment, the HTA is concerned that the imposition of the TAT on the complimentary rooms may result in negative unintended consequences. Complimentary rooms are used by the visitor industry to attract meeting planners to bring their events to Hawai'i, educate and encourage travel agents to book Hawai'i for their clients' vacations, and give travel journalists the opportunity to publish and air stories about Hawai'i as a meeting and vacation destination. Complimentary rooms are also used by the state to attract film crews to the islands, they are provided as shelter for emergency situations for those who are displaced, and are also used by community organizations for their fundraising events. If the TAT is imposed on complimentary rooms, this will limit an important tool of individual hotels and the state used to market Hawai'i, as well as other purposes the rooms may provide.

Thank you for the opportunity to provide these comments.

**kim5 - Deborah**

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**From:** Will at Page Marketing [will@pagemarketing.com]  
**Sent:** Wednesday, February 02, 2011 11:32 PM  
**To:** TSM Testimony  
**Subject:** Testimony: AGAINST SB 1186 Thursday, February 10, 2011

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Aloha Senators Kim and Kouchi,

This is to OPPOSE SB 1186 relating to the transient accommodations tax.

This bill is very poorly worded. It is impossible to understand what the issue is. The method of calculating a minimum payment is not appropriate to the real economics of the marketplace.

AS AN ALTERNATIVE MAY I SUGGEST THAT THE STATE DEPARTMENT OF TAXATION BE REQUIRED, INSTRUCTED AND COMPELLED TO CASH THE CHECKS THAT ARE PROVIDED TO STATE IN THE FORM OF TAX PAYMENTS FROM LOCAL BUSINESSES.

REQUIRE THE TAX DEPARTMENT TO DEPOSIT TAX CHECKS INTO THE APPROPRIATE BANK ACCOUNTS WITHIN FIVE (5) BUSINESS DAYS OF THE RECEIPT OF SAID CHECKS.

(This is easy to verify by looking at the back of the check. See what date it was issued and what date is was cashed.)

SINCE AT LEAST 1984 THE TAX DEPARTMENT HAS BEEN SITTING ON TAX PAYER CHECKS FOR AN AVERAGE OF FOUR TO SIX WEEKS. This is 10% of the 52 weeks in a year.

IT IS ESTIMATED THAT AT ANY GIVEN MOMENT **\$1 BILLION** (10% OF THE STATE BUDGET) IS SITTING ON SOMEONE'S DESK ON PUNCHBOWL STREET FOR SEVEN WEEKS OR MORE WAITING TO BE PROCESSED AND DEPOSITED IN THE BANK.

A CHECK PAID BY MY COMPANY ON NOVEMBER 18. 2010 WAS NOT CASHED UNTIL JAN. 7, 2011.

THIS SITUATION HAS NOT IMPORVED FOR THE PAST 35 YEARS!!

**IF YOU NEED SOME MONEY, CASH THE CHECKS WE ARE SENDING TO YOU.**

Mahalo,  
Will Page  
P.O. Box 1546, Kailua, HI 96734

Attention: Senate Committee on Tourism

Hearing: Thursday, February 10, 2011 1:20 PM

Conference Room 224, State Capitol

Subject: OPPOSE SB1186

Submitted by: Mary Smart, Mililani, HI

Chairman Donna Mercado Kim, Vice Chair Kouchi and Members:

1. I request you **OPPOSE SB 1186**. I am an owner of a “condotel” unit in Waikiki. Complementary rooms represent a marketing expense, and cost of doing business.

Re: Relating to the Transient Accommodation Tax (TAT)

- a. Charging tax when there is no income is anti-business and will negatively impact the tourist industry by raising owner expenses while doing nothing to increase revenue or value to our customers.
  - b. There is a false impression that the TAT doesn't affect Hawaii residents. Those of us who have invested in Hawaii in the tourism industry will be negatively impacted by this oppressive charge on innovative methods to increase the economy of Hawaii which relies heavily on tourists.
  - c. Many people in Hawaii like to vacation in Hawaii. This tax will make other locations look more enticing for their leisure time if they must pay an extra tax on “complementary” rooms that encourage them to stay longer and spend more in Hawaii for food and entertainment. Vacation expenses are usually fixed. If this tax is approved, vacationers will cut elsewhere. This tax will hurt our local economy.
  - d. Please consider cutting unneeded programs instead of spending so much time on how to obtain more of our income and savings. Our “special funds” have been raided. It is time to tighten the belt instead of looking for an extension.
2. Recommend a vote to **OPPOSE SB 1186**.