

HB1706 HD1

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Rental Agents

Description: Requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the unit. Effective January 1, 3000. (HB1706 HD1)

Companion:

Package: None

Current Referral: CPN

Introducer(s): EVANS

<u>Sort by Date</u>		Status Text
1/11/2012	H	Prefiled
1/18/2012	H	Introduced and Pass First Reading.
1/18/2012	H	Referred to HSG, CPC, referral sheet 1
1/23/2012	H	Bill scheduled to be heard by HSG on Wednesday, 01-25-12 9:20AM in House conference room 325.
1/25/2012	H	The committees on HSG recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 6 Ayes: Representative(s) Cabanilla, Ito, Chang, Coffman, Herkes, Nakashima; Ayes with reservations: none; Noes: none; and 5 Excused: Representative(s) Carroll, Har, Kawakami, Pine, Thielen.
1/30/2012	H	Reported from HSG (Stand. Com. Rep. No. 6-12), recommending passage on Second Reading and referral to CPC.
1/30/2012	H	Passed Second Reading and referred to the committee(s) on CPC with none voting aye with reservations; none voting no (0) and Representative(s) Cabanilla, Carroll, Luke excused (3).
2/3/2012	H	Bill scheduled to be heard by CPC on Monday, 02-06-12 2:00PM in

		House conference room 325.
2/6/2012	H	The committees on CPC recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 12 Ayes: Representative(s) Herkes, Yamane, Brower, Coffman, Ito, Keith-Agaran, Luke, Souki, Tsuji, Ching, Marumoto, Thielen; Ayes with reservations: none; Noes: none; and 3 Excused: Representative(s) Cabanilla, Carroll, McKelvey.
3/2/2012	H	Reported from CPC (Stand. Com. Rep. No. 710-12) as amended in HD 1, recommending passage on Third Reading.
3/2/2012	H	Forty-eight (48) hours notice Tuesday, 03-06-12.
3/6/2012	H	Passed Third Reading as amended in HD 1 with Representative(s) Johanson voting aye with reservations; Representative(s) Ching, Fontaine, Marumoto, Riviere voting no (4) and none excused (0). Transmitted to Senate.
3/8/2012	S	Received from House (Hse. Com. No. 66).
3/8/2012	S	Passed First Reading.
3/8/2012	S	Referred to CPN.
3/14/2012	S	The committee(s) on CPN has scheduled a public hearing on 03-28-12 9:30AM in conference room 229.



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March 28, 2012

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 1706, H.D.1, Relating to Condominiums

HEARING: Wednesday, March 28, 2012, at 9:30 a.m.

Aloha Chair Baker, Vice-Chair Taniguchi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **supports the intent** of H.B. 1706, H.D.1, which requires owners of residential units within a Condominium Property Regime, who reside on a different island or out-of-state to provide the managing agent or resident manager of the condominium with contact information of a rental agent located within the State who is responsible for the management of the unit.

HAR recommends that, if the Committee is inclined to move this measure, clarifying amendments be made, so that notice provided to a managing agent or resident manager occurs efficiently and promptly. HAR accordingly suggests that, rather than report on an "annual" basis as proposed by the current language of the bill, that owners provide and update contact information as soon as such information becomes known.

Under the Residential Landlord-Tenant Code, a similar notice provision applies to out-of-state owners and landlords -- Hawai'i Revised Statutes §521-43(f) provides: "Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the written rental agreement **an agent** residing on the same island where the unit is located to act in the owner's or landlord's behalf."

HAR similarly recommends that, for condominiums, an owner provide notice as soon as there is a management agreement in place – i.e., at the time the management agreement is entered into by the owner and an agent. In addition, if there are any changes in the management status of a condominium, the managing agent or resident manager should be notified. This makes sense because agents or agent contact information may change more frequently than annually.





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Accordingly, HAR suggests the following amendments to H.B. 1706, H.D.1 (which adds new sections to HRS 514A and HRS 514B):

Nonresident owners; [rental]on-island agents. An owner of a residential unit who resides on a different island from that on which the unit is located or out-of-state and who rents or leases the unit to a tenant shall provide the managing agent or resident manager [annually] with the name, address, and telephone number of [the rental] an on-island agent located in the State who is responsible for the management of the unit upon entering into a management agreement. If there are any changes in the name, address, and telephone number of the on-island agent, the owner shall notify the managing agent or resident manager."

Mahalo for the opportunity to testify.





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March 26, 2012

Aloha Chairman Baker,

We would like to voice our support of HB1706, Relating to Condominiums. As members of the tourism industry, we understand the importance of guests whom visit our beautiful state to enjoy their stay in comfort and with safety. In the State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the internet becoming a ubiquitous aspect of our everyday lives, many off-island and nonresident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter. When the guest of this property owner arrives without their arrival information as often times occurs, has a problem finding their unit, has trouble gaining entry to the property, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOA representative on site.

For these reasons, many AOA now request owners whom rent their properties to provide them the contact details for their on-island agent, but they can only request this information. They cannot require the rental ownership to provide it to them.

HB 1706 effectively addresses these issues. The AOAOs are placed into a stronger position of being able to require the on-island agent information to be provided to them, rather than just asking and hoping for a reply. Also, HB 1706 efficiently resolves the problem of off-island owners in apartments of not having an on-island agent as required by HRS 521 due to the AOAO's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

One change we would suggest to HB 1706 is to require the agent to be on the same island as the property being rented, not just in the State of Hawaii, as required by HRS 521-43(f).

With the passage of HB 2078 HD2 SD1, HB 1706's tenets are also now incorporated within HB 2078 HD2 SD1. HB 2078 has been referred to CPN for decision making in the near future. The CPN committee may determine that there is no need to have two bills incorporating the same concepts, and move forward with only one bill. If the committee were to make such a determination, we would suggest HB 2078 HD2 SD1 as the preferred legislation to be moved forward. HB 2078 HD2 SD1 contains many consumer protection aspects within it that HB 1706 does not.

We consistently see owners renting out their homes or condos without any on-island representation and even know of a few owners who have cancelled their TAT/GET licenses and still rent their places out to vacation renters. The state is getting ripped off by these owners and we, who live here pay the price. This needs to stop for everyone's benefit.

Thank you for your time and attention,

Jim Albone – R(B), ABR, CIPS, GRI, SFR, TRC
Principal Broker/Owner – Hawaiian Dream Properties

Melva Albone – R(S), RMP
Property Manager/Owner – Hawaiian Dream Properties



March 26, 2012

RE: Testimony Supporting HB 1706

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forward. HB 2078 HD2 SD1 contains many consumer protection aspects within it that HB 1706 does not.

Dan Monck

Exclusive Getaways

www.ExclusiveGetawaysHawaii.com

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Paul Shields

Organization: Sunshine & Rainbows L.L.C.

E-mail: paul@SunshineRainbows.com

Submitted on: 3/27/2012

Comments:

I understand that you people think by putting more obligations and expenses on we who follow the rules that those who don't follow the rules will start. Why would you think that? They break the law now all you are going to do is put some of us out of business thereby guaranteeing the lawbreakers will have more business, and thereby deprive you of more taxes.

It is like the old gun control people. Make guns illegal, so all lawbiding citizens turn in their guns. So what is left, the criminals, they don't obey the law so they keep their guns and thus the lawbiding citizens are more vulnerable to the bad guys. It is the same logic.

We pay our bills, we obey the laws, why punish us so some realestate clown who can't make a living anyway else can get rich on our missery.

We arn't stupid, we know that these realestate people contribute to your campaigns, so money talks, right?

We are organizing now. You pass this and other similar measure and we will contribute to the person running against you. We will also make sure that those on the island who your legislation puts out of work are made aware of who voted for this legislation and therby put them out of work. They will vote for someone who will repeal these burdensome laws and make more work for them.

Think about it before you vote.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ronald Bridges
Organization: Bridges to Paradise Rentals Inc.
E-mail: bridgestoparadise@shaw.ca
Submitted on: 3/27/2012

Comments:

Dear Senators:

My name is Ronald Bridges / President of Bridges to Paradise Rentals Inc. and we are a non-resident vacation rental company / owner. As a vacation rental company we provide accommodations for tourists that wish to visit this lovely state. We OPPOSE HB1706 as it is currently written. We agree with the intent of this bill but we would like to suggest the wording of the bill be adjusted. The bill states: contact information of a rental agent in the State, should be changed to read: contact information of the designated contact located on island. This would clarify that the contact person does not have to be a real estate broker / salesperson or a management company as rental agent could mean to some and the contact must reside on the same island as the property.

Please read the following as to why we must keep control of our properties and not place them in the hands of strangers from management companies who do not care about our condos or reputation.

We had our property handled by a management company and this is what we experienced. The management company would purchase items and tell us they were required for the condo, when we did an inventory the purchased items were not there. When we questioned the company about the items, we were told they must have been stolen again so we have to purchase more. Later we discovered that the management company would purchase items and place them in other condos they managed. We paid the company to provide a cleaning service and all we did was receive complaints from guests that the condo was filthy. When the cleaners would be sent back in to clean, the management company would bill us again. The company was actually double billing for a single clean. There was a fellow condo owner that had his condo managed by a management company and his condo was never being booked. One day his neighbor called him and said it must be nice that your condo is being booked so much. He called the management company and they stated that the condo was not being rented. The owner went to his condo and there were people inside, he asked them what they were doing in his condo and he was told they had rented it from the management company. The management company was renting the unit and keeping all the proceeds and they were not claiming the taxes. These are the companies that you want us to turn our home and business over too. We do not trust these people due to prior experiences. If your business was miss managed as ours was, I am sure you would have fired them too. This not an isolated case we have discussed this with many owners and all we hear are horror stories.

This law from what has been mentioned many times is to protect the consumer from non-resident owners but there is no mention of protecting the consumer from management companies. When there are issues with management companies there is nowhere for the consumer to go. If we want to provide protection then lets

provide total protection. We must remember that all non-resident owners are bad people (as these bills are alluding) as not all management companies are bad. There are laws in place, we must enforce them and punish the offenders. It does not make sense to punish the condo owners who do abide by all the laws and regulations.

Yours Respectfully
Ronald Bridges / President
Bridges to Paradise Rentals Inc. / Maui
bridgestoparadise@shaw.ca

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Hybiske
Organization: Sunset Shores Maui
E-mail: marilyn@sunsetshoresmaui.com
Submitted on: 3/27/2012

Comments:

I am writing in OPPOSITION to HB1706 which requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the unit. I think it raises some questions. I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate professional. I suggest that the term rental agent be changed to DESIGNATED LOCAL CONTACT.

I formerly used a management company to rent my condo. While it was convenient and less work for me, I was dissatisfied by the low rental rates that they insisted upon, the 30% management fee, their lack of appropriate advertising, and my occupancy rate. Their maid service wasn't as good as the one I use and my condo was lost among the condos they rented. My guests had no personal contact with me, the owner, and they were not given personalized service. If rental and occupancy rates go down, so will our property values. All of this will hurt the Hawaiian economy.

Renting on my own, I have raised my rental rates by 25%, eliminated the 30% management fee, improved my advertising choices, and use a much more professional maid service. Consequently my occupancy rate has gone way up. My guests like to deal with me, the owner, as I can provide individualized suggestions to make their stay on Maui the best it can be. I have many reviews supporting this on my VRBO listing (VRBO.com/215504).

I have a LOCAL CONTACT person for guests to contact in case of emergencies or questions. I would not feel comfortable without having her as a backup in case of problems. I do feel however, that posting her contact information on all of my advertising would be confusing for the guest (making them uncertain who is the primary contact) and also an infringement of my local contact person's privacy. I provide this information to guests prior to their arrival and it is clearly posted in several places in my condo. That is sufficient in my opinion. My local contact person works under my direction. I manage the rentals of my property with her assistance and the system works very well.

Renting on my own is bringing in more money to the State via the GE/TA taxes that I pay and it allows me to be a member of the HVCB and a good ambassador for Maui---I see it as a win-win situation for all of us. Taking this choice away from me will reduce my income, which will reduce the amount of GE/TA taxes that I pay, reduce the personalized Aloha experience that I provide to my guests, reduce the amount of dollars that I am now able to spend locally on furnishings and

amenities. In addition, I firmly believe that it takes away my constitutional rights to use my property as I wish. And it is just so un-Hawaiian!

The internet has changed the way people are finding rentals. Travel agents are becoming a thing of the past. Forcing me to use a management company to do something that I can do better just isn't good business. People are making their own arrangements for travel. Renting direct from an owner is preferred by many people and done throughout the country and the world. I can't fathom why the State of Hawaii feels the need to change that. The only people to come out ahead on this are the realtors and professional property management companies. It is bad for tourism, property values, and how Hawaii is perceived by others.

I paid over \$10,000 last year in GE and TA taxes. The State received every dollar to which they were entitled. I have no problem paying the taxes owed, but I DO have a problem having to pay someone else to manage MY property and make decisions as to what rate to charge and who to rent to. I am a good ambassador of Aloha for Maui. If this bill passes, it will have a great impact on the many people who rent on their own, offer a good product, and pay their fair share of taxes. If the State feels that they are not receiving the taxes they are due, then they should use the policies that are available to collect from those who are being unethical. Don't punish me and take away my rights!

I suggest better informing property owners of the laws concerning vacation rentals and better enforcement. I am OPPOSED to the use of the term Rental Agent as I think it could be easily interpreted to become a real estate agent or management company. The term should be the designated LOCAL CONTACT.

As a non resident (not by choice, but by circumstance) I am not eligible to vote on this legislation which will direct only me as a non-resident. This is unconstitutional and unfair. Please listen to us and the reasons we OPPOSE this legislation.

Aloha and Mahalo,
Marilyn Hybiske
Sunset Shores Maui

- - - - - www.SunsetShoresMaui.com
info@SunsetShoresMaui.com Marilyn Hybiske P.O. Box 546, Sonoma CA 95476

Read about my strong opposition to HB1706

March 25, 2012

"Every decision invokes the law of unintended consequences."

The current flurry of overlapping and redundant law revisions are targeting all private vacation rental owners in an attempt to flush out the small minority of non-compliant owners. In the end these laws would unwittingly damage, rather than enhance, a growing long term source of tax revenue for the state by driving down occupancy and causing many owners to move their investment money out of state. That in turn would put downward pressure on the already depressed and fragile vacation rental real estate market.

As the sole owner of three vacation rental condos on Maui, I'm very concerned as to how any change in mandated qualifications of "the rental agent located in the State who is responsible for management of the apartment" would impact negatively on my business.

Here's what has been my experience along those lines:

During the past 23 years, four different licensed realty/vacation rental management companies on Maui had represented my three condos. These entities were expensive, inept, unreliable and provided so little taxable income that I was forced to take on the marketing and managing of my condos personally in order keep them afloat financially. For the past 12 years, I have retained a private on-island professional (designated contact) for both my Lahaina condos and another for my Kihei condo. Each provides keying, plumbing, electrical, cleaning and other maintenance services from a list of acceptable sources which I have vetted.

In addition, my on-island designated contact information is already provided to every guest upon booking. Also this contact information has been provided to property management and kept current in order to conform with the existing AOA bylaws.

SUGGESTION: The state has the wherewithal to require an AOA or property management company to furnish unit ownership information including unit designation, i.e vacation rental, long term rental, owner occupied, etc. From this list, owner information could be gleaned and matched to your tax database to find out which owners are not in compliance. Then action could be implemented to catch the "bad guys."

This concept would not be disruptive to the underpinnings of a healthy segment of our tourism industry and be easily implemented. Plus possibly be self supporting with collections. I feel that wedging yet another layer of bureaucratic costs between the owner and the visitor is counterproductive if not destructive.

Thank you for considering my opinions.

Cordially, Jim Egan

Dear Hawaii Legislature,

I am opposed to HB1706 as it requires I hire a local RENTAL AGENT...that is my job and you are asking me to give up my job as I don't reside in Hawaii! I own multiple properties in Hawaii and have always paid my TAT & GET and Property taxes. But this (and the past few other similar bills) is just a money grab by realtors who can't re-invent a way to make money during a recession. It is discriminatory and wrong, as it also doesn't address a local owner--- just a non-resident owner.

As a result I have just sent the following letter of termination to my housekeeper. This letter depicts what the result of passing these bills will do to Hawaii. Please read it and you'll understand my position.

"Aloha Fernando,

The Kapalua property is becoming quite a problem for me. The Maui Tax Assessor continually creates false Property values and forces me to do a Property Tax Appeal each year (as opposed to assessing a fair & real valuation). I am tired of fighting with them.

Now the Kapalua Board of Directors has implemented a 4Million dollar remediation project. It was going to be paid from our Reserves but now they have decided to do more improvements to the property and want to borrow 9 million dollars. They have tripled my homeowner's fees and now require \$2400 month (as opposed to the \$930 it is costing and the \$600 amount it was when we purchased in 2004. I am tired of fighting with them.

For the past few years I've lost about \$25,000.00 a years try to sustain this property and now the property value has declined to less than what I paid for it.

There is always a repair problem that costs a lot of \$\$\$ to fix every month and it has just become a money pit.

I had tried to re-finance the property for 4 years but the new banking regulations changed the property classification from a condominium to a condo-tell. As such the property is no longer able to get a conventional loan thru Fannie May or Freddie Mac.

And to make matters worse, now the State of Hawaii is bombarding the House and Senate with these crazy bills (SB2809, HB1707, HB1706, etc) that require an off island owner to hire a local realtor to manage the property and collect the monies and pay the State Taxes. I have paid all the required taxes since 1995 and the property does not make enough monies to pay a large commission to a realtor. This is a money grab by local realtors who don't have housing to sell due to the recession and are fabricating another way to make money from off island owners.

I am tired of fighting these items. I know that by having this Villa I bring \$\$\$ to the islands and you & my plumbers, the local stores, restaurants, activities, car rental agencies, etc. But apparently the Hawaiian legislature doesn't give a crap. They don't care about the Hawaiian people or their jobs and they certainly don't care about owners like myself who work daily to keep our properties as vacation rentals for little or no return.

So as of April 5, 2012 I am putting the Golf Villa up FOR SALE and there is no more housekeeping for you after that time in this property Please clean the place on April 5th and remove all your linens, etc. My Realtor is going to "stage" the property and put it up for sale the next week.

I am sorry that this is happening like this. I recommend you write your Senator and Congressman. You can tell them you are losing work due to their greediness. I always pay my Hawaii taxes and have a stack of cancelled checks to prove it. It's purely a money grab and is wrong and discriminatory, as on-island owners do not have to comply with this law.

Even the Hawaii Dept of Taxation agrees they think most owners are in compliance with the tax laws. But the legislature doesn't care. It just wants to penalize compliant owners like myself

As a Real Estate investor, it might be time to pull our monies out of Hawaii and put them in California property.

Let's see what happens after we sell Kapalua.

Mahalo,

Gary Skardina

Partners In Paradise

310.374.6801"

WE STRONGLY OPPOSE HB 1706, HD 2, DUE TO CREATING BIASED AND UNEQUAL TREATMENT OF PROPERTY OWNERS BASED ON RESIDENCY.

While we believe it is good practice to establish and maintain current Owner Point of Contact information with resident Building managers, we do not support this proposal because it targets non-resident owners and requires them to comply with different standards than resident owners. This is a dangerous precedent to set as it opens the door for more targeted legislation against non-resident property owners.

A more appropriate, unbiased and legal approach would be to simply allow Resident Managers to decide how they want to best manage their own properties; *isn't that their job anyway!?* It appears that this is just a not-so- veiled attempt by certain realtors to force more business their way, at the biased expense of a targeted portion of our property owners.

Mahalo for Your Positive Consideration,

Richard De Leon

Member, Hawaii Vacation Rental Owners Association

I am a Canadian non-resident owner of a condominium on the Big Island. I have owned the property since 2004 and it has been rented as a vacation rental (transient accommodation) since purchasing it.

Bill HB1706HD1 would impose the services of a real estate agent on me to manage my property.

I fundamentally oppose this proposed legislation as it appears to be a thinly disguised attempt by Real Estate Agents acting as Property Managers in the State of Hawaii to save an outdated and inefficient business model by discriminating against non resident owners.

I am also concerned that the provision imposing the requirement to use a real estate agent to manage my property when there is no evidence that a licensed realtor acting as a property manager is any more competent than the local Hawaiian representative I already employ.

My fear is that if a limited group of individuals or companies are provided a monopoly as managers of transient accommodation, those individuals will exploit that monopoly to force excessive and uneconomic fees on the owners of transient accommodation.

Has consideration been given to the implications of the legislation under the North American Free Trade Agreement (NAFTA)? The bill as drafted could be subject to challenge because it is considered discriminatory against Canadian investors and non resident property owners in favour of Hawaiian residents.

Proponents of this bill and other bills under current consideration make unfounded assertions about a potential tax loss to the State of Hawaii as a result of non payment of taxes by non-resident owners of property. In their assertions they fail to cite any academic or State of Hawaii study to support such claims. I have yet to see a credible report concerning the often cited tax loss by the State of Hawaii by non payment of taxes by non-residents.

Imposing a specific real estate professional as a requirement to manage transient accommodation is highly intrusive and in my opinion the unintended consequences of HB1706HD1 will be to restrict commerce rather than improving tax receipts for the State of Hawaii from transient accommodation.

As a result I would ask that the legislators of the State of Hawaii give no further consideration to HB1706HD1.

Thank You

James Long
Timberline Land Co. HI, LLC

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Barbara A

Organization: miracle housekeeping

E-mail: miraclehousekeeping01@yahoo.com

Submitted on: 3/26/2012

Comments:

I barbara a. opose to this bill the owners we work for always paid & will pay their taxes, wtih out them we are homeless & hungry where will we the small people go to work to support our local family ?? we need these honest people, check on the owners that live here & cheat & don't pay their taxes not the ones that always pay their taxes?

Please people we beg you not to pass this bill, we need to work & eat, we have kids & grand-babies to feed please forget the bill ! Aloha, Barbara A.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: D Jeffery

Organization: Individual

E-mail: info@redwoodranchstables.com

Submitted on: 3/18/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Ted Walkey

Organization: Individual

E-mail: tedwalkey@hmcmt.com

Submitted on: 3/20/2012

Comments:

RE: HB 1706

As a community association manager, I support the intent of HB1706 but would ask that it stipulate the rental agent must be in the same county as the property being managed.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Ted Walkey

Organization: Individual

E-mail: twalkey@clearwire.net

Submitted on: 3/26/2012

Comments:

I support the concept but wish to see the agent in the same county as the property.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Sue Maruyama-Strickland

Organization: Garden Island Properties LLC

E-mail: Sue@kauaiproperties.com

Submitted on: 3/26/2012

Comments:

I do support having off island vacation rental owners having to use a licensed on island management company. Too often we have guests who come to the island and have noone to contact when unhappy with their accomodations. This will help relieve some of the bad publicity we can receive; give money back into the local economy and make off island owners accountable.

sincerely,

Sue Maruyama-Strickland

Garden Island Properties LLC

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: David P Cobb

Organization: Individual

E-mail: DPCpresto@yahoo.com

Submitted on: 3/26/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Susan Fyffe

Organization: Individual

E-mail: sueje@msn.com

Submitted on: 3/26/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Nadia Svechak

Organization: Individual

E-mail: kymanis_mommy@live.com

Submitted on: 3/26/2012

Comments:

Kelli-Rose Hooser

From: Kathie West [s1kathiew@yahoo.com]
Sent: Tuesday, March 27, 2012 12:47 AM
To: CPN Testimony
Subject: Oppose 1706
Attachments: Florida Tax.pdf

Aloha,

We wanted to let you know that we are in complete support of Hawaii collecting taxes. We have been faithful taxpayers for years! But the current legislation does not meet this need. The intent of this, and all the other current transient vacation rental related bills, is to ensure the State is collecting all its TA and GE taxes. This is, of course, something that I support.

One efficient way to monitor tax collection is to emulate what Florida is currently doing. Their vacation rentals are 4 times more than Hawaii by my calculation. It seems that they have a system in place that works well for them but they DO NOT force owners to hire a real estate agent or licensed agent. All of their strategies we would fully support!!

I am attaching a document I found outlining their methods of monitoring taxes. Please read this document. See highlighted yellow items. Basically it seems there are 3 things they do.

- 1) Have special programs that work between agencies
- 2) Stiff fines for non-compliance
- 3) A "whistle blowing" opportunity to expose non-compliance.

You can read this for yourself. I sincerely hope that you can modify your ways to get compliance... ways other than creating unconstitutional legislation. This type of legislation would probably pass without opposition.

Here are some other ways mentioned that would work..

I think a better way to collecting the tax (without having the negative impact on both tourism and property values), is the following:

1. have all AOAOs collect and report to the State which condos are
 - owner occupied
 - vacation rentals
 - time shares etc.

In the County of Maui, the AOAOs already report this information to the county for property tax purposes. I have to sign and return a form to the AOAO once a year for every condo I own, and people who don't return them are automatically taxed (for property tax purposes) at the highest rate.

2. At the same time, have the AOAOs collect business license/GE/TA license numbers for the vacation rental properties and report them to the State (this is currently not being done).
3. cross-reference the AOAO reports with the tax department's records, and conduct audits and issue fines as necessary.
4. All non-resident owners by law need to have an on-island representative for their condos. Should the State need this information, it is something the AOAOs could collect and report also.

This approach may be a bit more labor intensive for the tax department, however, it would have no negative impact at all on our property values, would not put thousands of vacation rentals in limbo (causing tourists to pull their bookings and go elsewhere, like Mexico, for instance).

The vacation rental agencies prefer the other approach as it eliminates most of their competition and brings them large profits, however, the impact on property values and tourism dollars will be HUGE for the State of Hawai'i, definitely not in the best interest of all Hawai'ians.

Kathie West

Host, Christine Karpinski: I'm Christine Karpinski. Thank you for listening to the "How to Rent Vacation Properties by Owner" podcast! Today's guest is Belinda Watson. She's one of twenty-two Tax Education Specialists for the Florida Department of Revenue. She's joining us via phone from her office in Davtona, Florida.

Welcome, Belinda.

Guest, Belinda Watson: Good morning.

Christine: Thank you for coming on our show. Belinda's going to talk to us today about the sales tax collection for the Florida Department of Revenue. Since a lot of people own and rent vacation homes in Florida, I thought that the Florida Department of Revenue would probably be the best department to talk to, and Belinda has thankfully agreed to answer some questions for us.

Who is responsible for collecting and paying sales tax?

Christine: The first thing that I wanted to ask you is: Who is required to collect and pay sales taxes?

Belinda: OK. As regards to transient rentals, anyone who is renting their facility, living accommodations, for periods less than six months will be required to collect sales tax from the person who's occupying that property. They may also be required to file a separate return with the respective county where the property is located, as well.

Christine: What if I have a property manager? Who would be required to file -- would it be me, or would it be the property manager?

Belinda: When you have a property manager involved, the property manager would be the one responsible to file. But you as an individual owner of that unit would need to be registered with us, and the property manager needs to be registered with us as well. Then the property manager will complete an application for collective registration-- and that form is a DR1C-- that the property manager would complete. That form will allow them to link your individual account to their account, and then it makes them required to file and remit those taxes that they're collecting from the tenants.

Christine: If I do use a property manager, should I follow up with the Florida Department of Revenue to make sure that they are indeed filing those taxes?

Belinda: I would, because when you register with the property manager and that account has been linked to us, the mailing address for all correspondence for that account would then be the property manager. Now, the individual unit owner will receive the certificate of registration that says their number and their effective opening date, but then after that, all of the information would go to the property manager. So it's probably good to follow up with it.

Also, if you're no longer using that property manager, then you would need to let us know that -- or the property manager let us know -- in writing. Send us some type of letter or statement that says that this property manager is no longer representing you, and then if the property manager does it, then they'll say the same. At that point your account then becomes your individual responsibility, and no longer the property manager's.

Christine: You know, I guess when it comes to anything that says "Department of Revenue" people get sort of squeamish about that. I think they'd rather go to the dentist and have a root canal.

Belinda: We're not that bad!

Christine: No, not at all! And I find Florida to be extremely accessible. I have, myself, picked up the phone and called plenty of times because I've had questions about my returns, and people are very accessible. The Tax Education Specialist department holds seminars for people, is that correct?

Belinda: We do. We hold seminars throughout the state. There are 22 of us. On our website, which is MyFlorida.com, you can go to the link under "Taxes" that says "Free Tax Seminars," and all of the seminars that we offer are free. We will speak to your organization or your association, based on any industry that you require. Or you can come into the office and see what workshops we have available on an ongoing basis.

Christine: Are the forms really complicated to fill out?

Belinda: The forms aren't complicated, and every form that we have does come with a set of instructions. You just have to be familiar with the form. If you're not familiar, the offices throughout the state do offer classes on how to complete the tax return as well. So the educational opportunities are endless.

We also have an 800 number where you reach someone in Tallahassee, and you can ask them questions at any time. The 800 number is if you're from Florida only, but that number is 1-800-352-3671. It's available from 8AM to

7PM EST (Eastern Standard Time). And then we also have another number for outside of the state of Florida, which is 850-488-6800. That number is accessible until 7PM EST (Eastern Standard Time), if you can't get someone in the local office.

Christine: Excellent, excellent. Is there a way to file the taxes online?

Belinda: Absolutely. We promote electronic filing, and we actually think that it's more convenient. It's just better and it's the wave of the future. If you're going through a property manager, the property manager most likely will file online because they have multiple accounts. That will be a monthly filing. You can file online, you can fill out the application to register online at the Web site MyFlorida.com/DOR and once you fill out the application online you'll receive all the information in the mail. Then you can register to file and pay online as well.

Christine: I know that's really convenient. Because you are the Department of Revenue things have to be postmarked by the specific day and in Florida it's by the 20th of the month. It's not fun to have to race to the post office, so it is definitely easier to do it online, you just attach it to your bank account and the money comes out of that. Now, I have another question: In the state of Florida, is it required that I have to have a business license in order to run my vacation rental home?

Belinda: I don't think that it's required for [you to have] a business license or an occupational license type. Now that is really governed by a different agency and you have to contact the business and professional regulations for the state of Florida and the Division of Hotels and Restaurants and they have a Public Lodging Division. The telephone number for them is (850) 487-1395 and they will let you know if there is any special licensing requirement.

Christine: Right.

Belinda: Now, as far as the counties and the cities, that's going to be independent of every municipality throughout the state of Florida. But for the state licensing thing, you would need to contact them, and their applications are also online. They have a Web site, MyFlorida.com/DBPR.

Christine: Excellent. Fabulous. Good to have all this information. Now, how often do we have to file those taxes?

Belinda: When you're set up as a new business, in most cases, you will be quarterly. And a quarterly filing means that you will be filing every three months. We're set up on calendar year quarters, so for the period January, February and March, that revenue would be due in April, any time between April one and April 20, and the due dates are the first and the 20th of the month, following the end of that filing period. You do have the first 20 days to file and pay, and if the 20th falls on a weekend or legal holiday, you have until the next business day. However, if you're filing online, the filing dates are 5PM on the business day before the 20th. Could be as early as the 17th or could be as late as the 19th, whatever that last business day is, by 5PM. One of the good things about online filing is that you can file early, you can go online, set up and file on the first, second, third, fourth, and then you can do what we call "warehouse" your payment, which is where you file the tax return, you receive a confirmation number, and you set the payment up to be made on the actual due date.

Christine: Oh, that's nice.

Belinda: So you're not filing and paying the money early, which is not really early, but people's perception of it is early because they think it's due on the 20th. The 20th is the absolute last day-- it's any time between the first and the 20th, but by filing online, you can file at any time, as long as it's timely, and then set that payment up to be made at a date in the future, as long as it is before the actual due date. So that's a good feature.

Christine: Yeah, because nobody likes to pay any bills on time.

Belinda: They don't, they don't, but you can still set it up, and then you can walk away, forget about it, if you're filing online and you don't have to worry about coming into the office, standing in line...

Christine: Right.

Belinda: ...going to the post office, so it just works better for everyone.

Christine: Ah, cool.

Sales Tax Rate

Christine: Now, what is the sales tax rate for the state of Florida?

Belinda: OK, the state sales tax rate is 6%.

Christine: Huh.

Belinda: Now, there's a discretionary sales tax surtax that differs for every county. The rates can be anywhere between .25% and 2.5%. So people will have a sales tax rate between 6% and it could be as high as 8.5%, but that's a discretionary sales surtax that will differentiate that.

Christine: OK, I own properties in Walton County and Bay County and Okaloosa County, and the surtax is different. You know, one has, I think, one full percent, the other is half a percent, and, on top of that, I also have to file for the county. Now, to me it's confusing because I'm filling out a state sales tax form, and then I also have to, on that state sales tax, do a county surcharge, and then also file another form for the county. So I think that is pretty important to know, and that it can be confusing between the state and the county. Now, to my understanding, the states and counties do work together; can you explain that a little bit more?

Belinda: Absolutely. It is confusing, because there is the state sales tax, then there's the discretionary sales surtax. Now, the discretionary sales surtax is filed on the sales tax return, whether it be a quarterly tax return or a monthly tax return, both of those taxes are coming in to us. But in addition to that, there are local taxes-- local option taxes-- that could consist of convention development or tourist development taxes. Now those taxes do go to the county for transient rent taxes only. However, some counties the state of Florida Department of Revenue will administer; some counties administer their own program. The only way to know that is to either contact the local service center, our 800 number, or if you go on our Web site and look up tax rates. There's a link there for the history of local sales tax and current rates, and under each county it will let you know what all the rates are, the breakdown for all of those rates, and then it will also let you know if the program is administered locally.

Christine: Right.

Belinda: If you are required to file a second tax return with the county, it will say "Local Administration," which means you have to file with us and the county. And if it doesn't say "Local Administration," then it means you'll just be filing the one return for all of those taxes with the Department of Revenue.

Christine: Well, that wraps up this episode of the "How to Rent Vacation Properties by Owner" podcast.

What is taxable?

Host, Christine Karpinski: Now what exactly is taxable? I know this is always a big question that people ask me. They are like: Are cleaning fees taxable? Are pet fees taxable? What about deposits? Do you want to explain that a little bit more?

Guest, Belinda Watson: Yes. I will talk about that. First of all the actual rental fee. the transfer rental fee is subject to tax. Now, if the landlord, or the person who is handling the rental, decides to attach all those fees and make it a part of the rental and you can't differentiate the different charges, then the entire charge will be taxable as a transient rental, which means that you will have state sales surtax, the discretionary tax, and those tourist development taxes.

Now, if those items are separately stated, as in the cleaning fees separately stated, residential cleaning is not taxable. So if separately stated and it is optional charge for the tenant, the cleaning fee is not going to be taxable.

Christine: Belinda, you are saying "separately stated." That could cause a little bit of confusion. Like, when I rent one of my properties, let's just say the rental rate is \$1,500 a week, plus there is a \$75 cleaning fee, plus the tax. In that situation, because I require the cleaning fee and they cannot rent without paying that cleaning fee, then that is absolutely taxable. Is that correct?

Belinda: Those cleaning fees that are separately stated would be taxable as a cleaning fee. If they are taxable as a cleaning fee, then it is going to be subject to the six percent plus whatever the county discretionary tax is. If it is part of the rental -- when it is separately stated it is not going to be considered part of the rental, but just a separate transaction. Doesn't mean that both are taxable or non-taxable, you then have to look at each situation in itself, but it could mean that is it taxable at different rates.

Christine: Ah, I see. So the best thing to do is really contact your Sales Tax Department, give them your specifics, because everybody is going to have specific and different situations. It is probably best to call and double check with that, because obviously that is definitely something you want to check on.

Voluntary Disclosure of Tax Liability

Christine: The next question I wanted to ask is for people who maybe didn't know about collecting and paying

sales taxes. Is there any amnesty for voluntary disclosure programs that the Florida Department of Revenue has, so that they are not going to get socked with all the penalties, and interest and fees and all that?

Belinda: Yes there is. There is not an amnesty period so to speak. Those amnesty periods come as designated by the Florida Legislature. We don't have any of those right now. Kind of haven't any for quite some time. During periods when a person wants to come forth and make a voluntary disclosure of the tax liabilities, there are benefits though.

Anyone who has previously not been contacted by the Department of Revenue, can voluntarily disclose their liability, whether they have collected the tax from that tenant or that customer or not. When they come forward to us and when they report that tax under the voluntary disclosure program, we will waive the penalties, once the tax and the interest has been paid. That is provided that it is not tax that has been collected and not remitted. We will waive all the penalties.

Christine: Those penalties can be pretty hefty. I have one of my Florida State Department of Revenue sales tax accounts that got messed up. My property is right on the county line, and they actually gave me the wrong county sales tax ID number. Then they realized it.

I think what happens is, everybody somebody new comes in to their office, they do an audit and say, "Oh, this person hasn't paid their taxes." But really that account has been closed. But it's just really confusing. But anyway the moral of the story is about four or five months ago, I got a sales tax bill for \$1,500 for one month that supposedly I didn't file.

We were able to clear it up because I really did pay it, but it just got applied to the wrong account and all that. But I was astonished because most of that \$1,500 was penalties and interest, and it was a period of time when it wasn't even booked, because it was the October to December period, which in Florida isn't booked very well.

Talking about that, do you know the largest amount that somebody has had to pay for noncompliance?

Belinda: I don't know any of the largest amounts that anyone had to pay due to non-compliance, but they can get pretty hefty.

We have a statute of limitations for three years, so you are talking about three years of potential liabilities, which could be at a six percent sales tax plus any county taxes. You have some places that as high as 12 to 12.5 percent. So you are talking about those kinds of taxes.

Penalties are 10 percent of the amount of tax, and interest is at a variable rate which changes every January 1 and July 1. Right now the interest rate is 11 percent and it will change again January 1. The interest is accrued until the tax is paid.

Christine: How is it that the Department of Revenue finds people who are noncompliant, who are not collecting and paying sales taxes?

Belinda: We have several ways. Of course, we have special projects that may go on from time to time, and Florida, being one of those states where transient rental is very popular-- you could have a special project. I know that the counties and the state work together. Governmental agencies work together when it comes to common interest.

If a county has special programs going on, where they're searching in their computer to find out what property is homesteaded or not homesteaded, they could trigger some action on their part, and they may share that information with us. Likewise, we can share with them.

Christine: How interesting.

Belinda: Also, often times people call in and tell us that someone is renting their property and they're not registered with the Department of Revenue.

Christine: Do you mean a whistle blower?

Belinda: We do! We have a whistle blowers' program, and we have a reward program!

Christine: Oh, really?

Belinda: On our website, yes. It tells you all about all of that, if you whistle blow!

Christine: If you want to be a whistle blower, and make some money, you can go on the website and... Oh oosh!

Belinda: And you can fill out a form, yes! There's a form that's a DR-55, which is an application for compensation of tax information. Now, in order for it to be awarded, it has to be proven that that person has purposefully evaded the tax, or there's been an on-purpose violation. Other than that then, people call in and tell, and then we'll follow up, either by way of audit, education, or just having a person register and come forth with a voluntary disclosure, which is the best way.

The special project, like I said, [happen] all the time. Sometimes they could be a self-audit, a form that is mailed out to the individual that says, "Do you rent your property? If so, do you realize these are the laws?" It gives a form to fill out to self-disclose that information.

There are several ways, and those are just some of the more popular ways.

Christine: Common ways.

Taxes and advertising your property

Christine: On the advertisement for your property, like if you listed it online, does the Florida Department of Revenue require me to list the price without the taxes?

Belinda: Yes. It's in your best interest to list the price without the tax because the statutes say the tax must be separately stated, and if the tax is not separately stated, then we will assume it has not been charged. So, you'll need to list the price of the unit without the tax, and then add the tax on top when you do the actual billing.

When to File a Sales Tax Return

Christine: Excellent. What if my property is not rented because, say, I own in Destin or Panama City, and from October to December I typically have no one in my property, am I still required to file that sales tax return?

Belinda: Absolutely. You'd be required to file even if there's no revenue generated since you are an active registered business, whether that be a monthly filing or a quarterly filing. If you didn't generate any revenue, you will file a zero tax return, and it still would need to be filed timely to avoid penalty because the minimum penalty associated with filing is \$50.

Christine: Right. So, no need to pay 50 bucks if you don't have to!

Belinda: Absolutely.

Christine: In the State of Florida, this is always a point of confusion for a lot of owners as well, we rent to snowbirds, and typically we rent anywhere from one to three months at a time. Some parts of southern Florida, they do rent for four, five, or six months. What constitutes a long-term rental where no sales tax is required to be charged?

Belinda: A long-term rental would be a situation where there is a bona fide lease agreement for a period of longer than six months, and that would make that rental not subject to the sales tax.

Christine: And, what sort of proof do you have to provide?

Belinda: You need to have a written lease.

Christine: Ah!

Belinda: You need to have a bona fide written lease, and that lease needs to state the length of time that the accommodations are occupied, or at least, intended to be occupied. It must state that the leaser or the tenant has been given exclusive use or possession of the property for the duration of the period. We must be able to determine that the lease is what we call, bona fide, meaning that the intent or the objective of the lease is to fulfill the commitment and the obligation without deceit or fraud.

Christine: So then, definitely I have to send that paperwork in.

Contacting Belinda Watson

I support HB1706, as a property manager in the state of Hawaii for twenty years and with a property management for 30 plus years I have seen an alarming trend for both property managers and the state of Hawaii with the advent of online websites marketing vacation rentals in our state. These websites have online calendars and even help mainland owner process credit card. However they are not the person helping the guest solve the problems they may encounter after they arrive. They are also in many cases not accurately reporting the revenue they collect. I have lost approximately 30 units in the past 3 years to VRBO alone, and even though they are the largest there are others out there. I have even seen VRBO listed as the property manager on a list given out to potential clients as the managing agent.

The loss of 30 units means fewer employees in my company and from less reported income to the state of Hawaii. I have spoken to guests and they tell me they book with VRBO because they can pay less when they speak to the owner and in many cases pay no taxes!!! So are those stays than reported at all? It is doubtful. If you do not require property managers or hotel operators manage properties within the state you lose your check and balance system. Please support HB1706.

Pamela Higgins, RBS

SunQuest Vacations

In regards to HB1706 HD1

We own a condominium on Maui, which we live in for half of the year, and which financial necessity dictates that we rent out as a vacation rental for the balance of the year. We have all of the appropriate licenses, and diligently pay our GET and TAT taxes. In agreement with the intentions of this bill, we supply all of our renters with the names and contact information of our designated local contacts, in case any issues or emergencies should arise. Our condominium management office also has this information.

Our concern with this bill, as with other recently deferred bills, is that the wording may require us to employ professional rental agencies, with all of their inherent costs and failings; as opposed to reliable individuals such as our local cleaning and maintenance families whom we know and trust.

From our own experience, and the experience of many fellow property owners that we have talked to, forcing an owner to work with a rental agency exposes that owner and his property to numerous risks that he would not otherwise be exposed to. Here is a list from our experience: 1. Keys being passed around allowing unauthorized access to the unit. 2. People staying in the unit that were never reported to the owner. 3. Excessive numbers of occupants allowed to stay in the unit. 4. Insufficient qualifying of potential renters resulting in damage to the unit. 5. Improper accounting to the owner. 6. Poor cleaning of the unit between guests. 7. Poor maintenance of the unit. When an owner is in direct control of his unit, and has direct contact with the guests as well as the cleaning and maintenance people, these problems rarely exist.

In summary, we are not adverse to the idea of supplying our resident manager with the contact information for the local families that care for our unit, and who live nearby and take care of any issues that may arise. However, due to the past experiences of ourselves and others, we are very adverse to anything that would require us to take on the additional costs and exposure of hiring a separate rental agency.

We therefore ask that the wording in this bill be clarified to indicate "a designated local contact", as opposed to "a rental agency".

Thank you for hearing our concerns on this bill.

Sincerely,

John Crews
808-298-4189
P.O. Box 872
Sun Valley, ID. 83353
John Crews

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Karen Veneziano
Organization: Individual
E-mail: sunnyskys117@hotmail.com
Submitted on: 3/27/2012

Comments:

I have owned a condo since 2006 and have been renting it as a vacation rental since then. I have always paid GET and TAT taxes.

I strongly oppose Bill HB 1706 HD1. It discriminates against property owners that live off island or out of state. Why would where you live make a difference? There would always be a few don't pay taxes either way. The majority of owners pay taxes as stated the 2007 report. There did not appear to be a problem then.

This proposed legislation would impose the services of a real estate agent or property manager to manage my own property at the rate of 25% to 40%. This seems to be a thinly disguised attempt to take over my right as a property owner for

the monetary benefit of property managers. This would force me to sell my condo, as I just break even as it is. There are mortgages, insurances, property taxes, aaoa fees, etc. Many owners would be in the same situation as myself and sell or go into foreclosure. There would be a flood on the market and all property values would go down.

Tourism would also be affected as rates would have to go up substantially. There are many less expensive tropical places to travel than Hawaii. I have had many past quests contacting me recently with there are concerns about future rates! They have been following this legislation too.

I love Hawaii and as I have been visiting and have lived here on and off for over 40 years. Having owned a vacation rental has given me a chance to be one of your greatest ambassadors.

I would like to ask that the legislators give no further consideration to Bill HB 1706 HD1.

Sincerely,
Karen Veneziano

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mary Gross
Organization: Individual
E-mail: mgross@miracosta.edu
Submitted on: 3/27/2012

Comments:

Aloha, Distinguished Representatives

I am writing to express my strong opposition to Bill 1707. I am very concerned that passage of this bill would result in my inability to retain my property that my husband and I worked years to acquire.

We purchased a condo on Maui in December 2010 for over half a million dollars. We invested nearly \$150,000 California earned dollars as a down payment into this Maui investment as it is our dream to eventually make Maui our permanent home. In the meantime, we are managing our own rental on VRBO and take great pride in sharing our condo with guests who we screen and communicate with regularly. In the past year, we have earned a 5 star (highest) rating on VRBO and received numerous reviews commenting on our excellent customer service, attention to detail, and immediate response to any issue.

We, as the majority of owner-managed units, take great care and concern to follow the laws and pay our taxes. We filed for and received a license before renting our unit and we pay our GE and TA taxes as well as the higher property tax rates as a short term rental property. Through our investment, we annually generate thousands of dollars of taxes for the state of Hawaii and are happy to do so.

If this proposed law had been in effect, we would never have purchased a property on Maui. I do not want a property management company who manages numerous rentals

to manage my property. I want to know (and decide) to whom I rent my unit and be in regular contact with my guests. I have an excellent on island manager who is on call for my guests 24/7. I also 1099 this individual.

It is disconcerting that the real estate/management companies are claiming that private owners do not pay taxes or run effective or legitimate businesses. Certainly, there are those, both on-island and off, including those managed by realtors who rent and do not follow the rules. I doubt this legislation would do anything to find those and instead only harm those of us who are doing the right thing.

Although I question the legality of this bill (I do not believe it is legal to mandate what I do with my personal property), if passed, I would NOT continue to rent my unit short term. Not only could I not afford to do so, I would not allow my unit to be turned over to others. I would attempt to rent my unit long term and hope I can manage to cover my costs and not lose my property. Obviously, this would not help increase the state of Hawaii tax coffers, but instead would decrease it.

Please consider that the lobbyists and property managers are the only ones who will gain from passage of this bill. I am sure they will be out in full force and are continuing to make undocumented claims that passage will result in increased revenues for the state. Where is the hard proof? How can taking away rights from a private property owner be beneficial? Where is my consumer protection? Where is the guarantee that what my guests pay in taxes will be secured and paid by this company? I still will be responsible for payment whether or not they make it on my behalf. There are just too many downsides to this bill. As a property owner, I am not alone in wanting to care for my own property and I will not turn over those rights. Passage of this bill would force me to take my property out of the short term rental pool and convert it to a long term rental. Gone are the TA and GE taxes now paid as well as the higher property tax paid on a unit designated as a short term rental.

It is time to stop this bill that is poised to result in numerous lawsuits, lost revenues, and declining home values.

I thank you for your careful consideration. With aloha,

Mary Gross
California

Dear Sirs,

We have owned and rented a vacation rental on Maui since 1964 and we appreciate your concern but PLEASE change the portion of the bill that says "rental agent" to a "designated local contact".

We pay real estate taxes, TAT and Excise taxes and file the N-20 return with State of Hawaii.

Our property is a home and next door to a small condominium. The onsite manager of the condominium is our onsite manager. It has worked beautifully for 50 years and we are hopeful that we may continue on with our good local contact.

Take care,

Linda Owen
Maui

To whom it may concern:

We strongly oppose bill # 1706. We have owned and rented our unit for 14 years and have never been late with our tax payments. We have worked hard to beautify the Kihei area and resent being punished because of the few that don't pay their taxes.

We do agree that the intent of bill HB 1706 is fine but feel that the term "rental agent" should be changed to "designated local contact".

If this bill passes, we feel (and many others also feel) that we have no choice but to declare our unit as a second home and not rent it out--thereby the state will lose the 13.25% (transient and excise tax) that they have been faithfully getting from us and our real estate tax will also be decreased.

It seems to us that this bill--in it's current form--will mean much less money for the state of Hawaii rather than adding to it's badly needed revenue.

Thanking you for your time in reading our letter.

Paulette and David Heilbrun
3370 Brae Bourn Road
Huntingdon Valley, Pa. 19006
and
2960 South Kihei Road
Mana Kai Maui # 615
Kihei Maui, Hawaii 96753

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Goldson
Organization: Individual
E-mail: fscrooner@hotmail.com
Submitted on: 3/27/2012

Comments:

I object to the language in this bill that limits our island contact to a "rental agent" rather than simply a "designated island contact". Real estate agents do not deserve to be handed a monopoly, as renting is not their main interest. It is merely a sideline to Sales which is their primary focus. It is my experience that

they frequently mismanage rentals resulting in double bookings and scheduling conflicting maintenance procedures.

I understand that the purpose of this bill is not to improve things for renters or owners, but to facilitate the collecting of transient taxes. As an owner who diligently pay his taxes, I too want to make sure my "competitors" are following suit. However, there are better ways to achieve this without creating an unfair monopoly and severely limiting the rights of out-of-state owners who have chosen to invest in Hawaii.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carl T Hu
Organization: Hu Smith LLC
E-mail: carlhu@hufamily.com
Submitted on: 3/27/2012

Comments:

While we agree with the intent of this bill, we are concerned that the bill may be changed to require that the rental agent be a licensed real estate profession. We believe that the term of rental agent should be changed to designated local contact. This would provide the greatest benefit and protection to HI consumers and visitors.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carl T Hu
Organization: Hu Smith LLC
E-mail: carlhu@hufamily.com
Submitted on: 3/27/2012

Comments:

While we agree with the intent of this bill, we are concerned that the bill may be changed to require that the rental agent be a licensed real estate profession. We believe that the term of rental agent should be changed to designated local contact. This would provide the greatest benefit and protection to HI consumers and visitors.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Pat Fox

Organization: Individual

E-mail: foxaloha@aol.com

Submitted on: 3/27/2012

Comments:

I'm concerned that in future this bill may be altered to require that the contact person for the rental must be a real estate agent. I have had them in the past manage my apartment and they proved to be lax, disinterested, and unreliable in the extreme. The arrangements we make with whomever we trust to take care of our property interests should not be a matter of state law.

To the Tourism Committee, Public Hearing, Session March 28th 9:30 am, HB1706 HD1

My name is Stephan Vossen. I own a condo on Maui. While I agree with the intent of this bill, I am concerned too many questions are open and uncertainty for property owners is created. Uncertainty about this bill and potential reduction of owner income when forced to employ a property manager will have a negative effect on Hawaii properties and the vacation rental market.

I strongly feel the HB1706 bill in its current form should not be implemented for the following reasons:

- I am concerned that the term "rental agent" may require an owner to employ a licensed real estate profession.
- I believe that the term "rental agent" should be changed to "designated local contact".

May I kindly ask for changes in the wording of the bill so that vacation property owners can continue to provide the superior vacation experience through For Rent By Owner which so many Hawaii travelers have learned to treasure without having to involve professional property management companies.

Mahalo
Stephan Vossen
Los Gatos, CA 95032

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Colette

Organization: Individual

E-mail: colettewolszon@hotmail.com

Submitted on: 3/27/2012

Comments:

I disagree with the bill.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Tom Hagen
Organization: South Kohala Management
E-mail: tom@southkohala.com
Submitted on: 3/27/2012

Comments:

RE: Testimony Supporting HB 1706

We would like to voice our support of HB1706, Relating to Condominiums. As members of the tourism industry, we understand the importance of guests whom visit our beautiful state to enjoy their stay in comfort and with safety. In the State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the internet becoming a ubiquitous aspect of our everyday lives, many off-island and nonresident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter. When the guest of this property owner arrives without their arrival information as often times occurs, has a problem finding their unit, has trouble gaining entry to the property, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOA representative on site.

For these reasons, many AOA now request owners whom rent their properties to provide them the contact details for their on-island agent, but they can only request this information. They cannot require the rental ownership to provide it to them.

HB 1706 effectively addresses these issues. The AOAs are placed into a stronger position of being able to require the on-island agent information to be provided to them, rather than just asking and hoping for a reply. Also, HB 1706 efficiently resolves the problem of off-island owners in apartments of not having an on-island agent as required by HRS 521 due to the AOA's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

One change we would suggest to HB 1706 is to require the agent to be on the same island as the property being rented, not just in the State of Hawaii, as required by HRS 521-43(f).

With the passage of HB 2078 HD2 SD1, HB 1706's tenets are also now incorporated within HB 2078 HD2 SD1. HB 2078 has been referred to CPN for decision making in the near future. The CPN committee may determine that there is no need to have two bills incorporating the same concepts, and move forward with only one bill. If the committee were to make such a determination, we would suggest HB 2078 HD2

SD1 as the preferred legislation to be moved forward. HB 2078 HD2 SD1 contains many consumer protection aspects within it that HB 1706 does not.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Kathleen Raskwosky
Organization: Individual
E-mail: kittiekr@comcast.net
Submitted on: 3/27/2012

Comments:
Oppose in current form.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Thomas O. Raskowsky
Organization: Individual
E-mail: surfparadise@hawaiiantel.net
Submitted on: 3/27/2012

Comments:
Oppose in current form.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: SL Adams
Organization: Individual
E-mail: maprows@aol.com
Submitted on: 3/27/2012

Comments:

Aloha~

I am writing to OPPOSE HB 1706.

This bill is not good for Hawaii and should be stopped immediately.

The verbiage in this bill is vague and I am concerned that the bill may be changed to reflect the rental agent to be a licensed real estate agent.

Many owners have had to WITHDRAW from management companies due to the common practice of having nonpaying guests occupy their condos without the owners knowing and the taxes WERE NEVER COLLECTED.

I do not want to experience this again and I do not want anyone other than myself dealing with my guests.

Think about this~ WE ALREADY HAVE CONTACTS ON THE ISLANDS WHO TAKE CARE OF EMERGENCIES AND CLEANING AND MAINTENANCE.

So I ask~ Why then are you trying to funnel our investments off to realty companies?????

This is NOT ABOUT TAXES~ this is about special interests and will impact the state of Hawaii like you cannot possible imagine.

DO NOT TRY TO TELL OWNERS WHAT THEY CAN DO WITH THE PERSONAL PRIVATE PROPERTY THEY OWN.

Please vote NO on 1706.

Mahalo,

SL Adams

March 27, 2012

Re: HB1706 / HD1 Hearing , March 28, 2012

To whom it may concern:

I am a Maui vacation rental condominium owner residing in California. I agree with the intent of the above bill but am concerned about the following:

1. that the bill may be changed to reflect that the rental agent be a licensed real estate professional; (This would be very costly to direct rental owners. They do not screen renters like I do and I have more renters now than I did when I employed a professional rental agency.) Using a licensed real estate professional could result in my having to sell my property since I would not receive enough income from it.
2. ask that you consider changing the term "rental agent" to "designated local contact". (I already give my renters 2 local contacts on Maui.)

Thank you for your consideration of these matters.

Rosemary E. Michaels
903 Esplanade Cr.
Folsom, Ca. 95630

Mickey Roberts
130 Kai Malina Pkwy
Lahaina, HI
March 27, 2012

Honorable Members of the Senate Committee on
Commerce and Consumer Protection

Subject: Oppose Wording of Bill HB1706HD1

I generally agree with the intent of this bill, but I have a few concerns:

- Once someone has my GET/TAT license number my personal contact information could easily be obtained from the public Tax Department License Checking page at <https://dotax.ehawaii.gov/tls/app>. I'm concerned that others could use my GET/TAT license number fraudulently in their advertisements or for other non-legitimate purposes. Please consider a way to control this potential problem.

- This bill COULD be changed to reflect the on-island contact be a licensed Real Estate Professional. I would prefer using the term "Designated Local Contact." We use this definition now and it has served us well for many years and without any confusion to our renters.

- I am also concerned that listing the on-island contact phone number in advertisements and web sites will confuse a prospective renter. I'm sure most potential renters will not know the difference in terminology; this will lead to much frustration with many unnecessary calls to the wrong entity. I believe it would be better to require owners to supply their guests with the number of a "Designated Local Contact," by posting it in the room as well as included in their rental documents. We do both now and, again, it has worked very well for us over the years and it's never been confusing to our renters.

I am a strong advocate for Hawaii tourism, enforcing Hawaii's current tax laws and ensuring a great rental experience for our clients; but do not support adding "Property Managers" or "Real Estate Professionals" language into this bill.

Thank you for considering these important issues regarding this bill.

Respectfully,

Mickey Roberts
Owner Honua Kai #637
130 Kai Malina Pkwy
Lahaina, HI 96761

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dawn Wooten
Organization: Individual
E-mail: kauaidawn@hawaii.rr.com
Submitted on: 3/23/2012

Comments:

This makes the false assumption that non-residents do not pay appropriate rental taxes and further makes the assumption that on-island residents do. Do we know that for a fact?

I have entered testimony previously and would like to state again. The process and procedures for collection of tax in Hawaii is what needs to be addressed. Thinking that we can fix something by making another law is incorrect. The tax collections office needs to be refined.

Also, I feel this law is not appropriate. How can you apply an additional expense to a non-resident owner. Seems like a punishment. Give companies that come here a discount on taxes and punish rental owners who bring in tourism? Since this is our main income, seems counterproductive.

Also, are you going to teach the realty offices how to handle this extra burden appropriately? They will still have to work with a division that does not work!

About my first comment "Do we know that for a fact?" I doubt it, they lost my paperwork of 3 quarters "on someones desk", so how do they know who paid and who didn't?

Thank you. I really appreciate your work on this and hope you see that this is an inappropriate Bill.

Oppose Bill HB1706 Relating to Transient Accommodationsan>

I oppose this invasion on my rights in the strongest of terms. First, it discriminates against me for not being a Hawaii resident. Second, it forces me to hire a company that I do not need and forces me to pay for a service I do not need. And that at a very significant cost to me and your Hawaii guests. (And isn't Hawaii visitors what we both want?)

Are you trying to stop the vacation rental business? If you are only trying to catch the cheaters who are not paying the GET and the TAT, hire a company to check the vacation rental directories for Hawaii properties against your data base of these who paid their taxes. If you find owners that are not paying their taxes, fine them with BIG fines, audit their records and collect back taxes.

Also, make it known, advertise, that if you cheat and are caught, the fine will be SIGNIFICANT.

When we bought our condo, and we spend two or three months there each year, we had it managed by a local Real Estate company. THEY DID A TERRIBLE JOB!!! AND IT COST US 25% OF THE GROSS. NOT THE NET, THE GROSS!!!

Within a year, we started doing the management ourselves. I can offer a potential Hawaii visitor (something I would think you'd want), 24/7/365 attention. I am not closed after 4PM or on weekends. If there is a problem at the condo, I can get it taken care of immediately. Not so with the R/E company.

I had damage to our condo and items stolen that we were not told about by the management company. I discovered them when we came over to the condo. By then it's too late to do anything.

We employ local people to clean and to do maintenance work just as the R/E company would do. We add to the wonderful Hawaii experience that our guests have during their vacation to Hawaii, and in a very personal way. I talk with each guest before their trip, I help them find things they like to do and see, where to eat, what golf courses are near, and on and on. That is not the kind of personal service a R/E company can or will do.

Your bill is a slap in the face to we owners who pay our Hawaii taxes and to our guests who would, under your bill, be treated like just another number.

Please don't pass this bill.

Thank you, Lloyd Kirchner, 68-3840 Lua Kula, E107, Waikoloa , HI 96738

Mainland address: 15005 Broili Dr., Reno, NV 89511;
phone:775.741.9939

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Merlic, Marian, Ed
Organization: Individual
E-mail: marmer@surewest.net
Submitted on: 3/27/2012

Comments:

1. Marian and I have owned in Maui since 1986. We spend 6 months there in 3 visits each of 2 month duration, caring for our property.
2. We initially used a realtor who cared less for the unit than for his exorbitant fees and the unit degraded physically and in reputation.
3. We have always paid all taxes, TAT and County, on time and in full.
4. Your efforts to again saddle us with a realtor will return us to the ills of outside and non-caring management.
5. Your existing laws are sufficient to protect you from scammers. Please reconsider this aspect.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carrie Cooney
Organization: Individual
E-mail: ccooney223@gmail.com
Submitted on: 3/27/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: JOHN HENDERSON

Organization: Individual

E-mail: jphend@comcast.net

Submitted on: 3/27/2012

Comments:

AS DRAFTED THE BILL, IF ENACTED, WOULD VIOLATE THE DUE PROCESS, EQUAL PROTECTION AND COMMERCE CLAUSES OF THE U.S. CONSTITUTION.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Gwen Keighley
Organization: Individual
E-mail: keighley.maine@gmail.com
Submitted on: 3/27/2012

Comments:
RE: SB 1706

*We are the original property owners of our condo on Kauai.

*We use an on-island rental manager, who provides us with some rentals, and also manages our rentals that we generate and process, as owners, using VRBO. Between the two, we have had relatively good success, especially now that things are picking up. Without the VRBO income, we would not financially be able to continue to own this property.

*We need \$6000 per month in rentals just to break even and we do not make that. My husband is 65 and is working in order to make up the difference, as we never receive enough to pay mortgage, taxes, fees, etc.

*We also pay a management fee to our on-island manager for our VRBO rentals to make sure our VRBO guests have a local contact.

*Please do NOT require that the on island contact be a "licensed" professional. A designated LOCAL CONTACT is all that is necessary to attend to the needs of a guest.

*A "licensed" professional would have the power to charge a standard commission, which we owners cannot afford.

*We provide excellent service to our guests and consistently receive the highest reviews on our web sites. I am very sure that they would be very disappointed to hear that they would no longer be dealing with Gwen, the owner, in the future if this legislation passes. Please read what they have to say, VRBO #131268.

*We cannot afford more costs and fees to be deducted from our rental come. I am also afraid of what this legislation will do to the real estate market, to banks, and to the island economy. Owners just barely able to get by will be pushed over the edge by another expense.

Thank you for listening to our point of view and we would appreciate your consideration on this pending legislation.

Gwen Keighley David Hiatt
keighley.maine@gmail.com

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Susan Yada

Organization: Individual

E-mail: susanpinkard@aol.com

Submitted on: 3/27/2012

Comments:

I am strongly opposed to Bill 1706 in its current form. While the intent of the Bill is reasonable, I would like to see the term "rental agent" be changed to "designated local contact".

I am currently an off island owner and pay my TAT and GE taxes as required. I would not consider having my property managed by anyone other than myself. It is unfair and unreasonable that I should be forced to do something with my own property that I am capable of doing myself. I should not be penalized because a few people are not doing the right thing. They are the ones you should be going after.

The dissappointments my guests have shared with me and other stories I have heard with regard to lack of maintenance and unavailability of so called "property managers" is not something I would consider. I have a local contact for any emergency that might come up. It is someone I trust and know will handle any issue. They are not real estate agents or property managers - just responsible residents of Hawaii for over 20 years. That should be my choice - not the state of Hawaii.

I strongly urge you not to support or pass this Bill 1706

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Anna Stone

Organization: Individual

E-mail: JesusisLordus@yahoo.com

Submitted on: 3/27/2012

Comments:

I already use a company who watches our condo and cleans it. This company does not rent out our condo. We do. As long as someone can take care of our condos, why does it even matter who it is? HB1706 is not needed.

Anna Stone-Waikoloa, HI

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Charles Warner

Organization: Individual

E-mail: cwarnn@comcast.net

Submitted on: 3/27/2012

Comments:

I support paying tax - but am concerned and oppose the insertion of property managers or realtors into the equation in any way

We are the best managers of our own property and are strong ambassadors for Hawaii. We keep a dependable contact on the island should our home or guests need immediate attention

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Nancy Spencer

Organization: Individual

E-mail: nancyspencer107@gmail.com

Submitted on: 3/27/2012

Comments:

I and my husband look forward to our visits to Kauai. We have been utilizing a condo, owned/managed by a US resident who does not reside on the Island. I would submit in these economic times when we look to vacation cost is a major factor. I therefore express opposition to this bill that will "add cost" to the owners, thus will transfer additional cost to vacation renters. The airfares are already out-of-sight for HI, don't be foolish to add another cost with such a bill. Think of the revenue dollars lost when people cannot afford to vacation on your beautiful Islands. Respectfully, Nancy Spencer

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sally Nisbet

Organization: Individual

E-mail: Sallynisbet@aol.com

Submitted on: 3/27/2012

Comments:

My husband and I have no vote in spite of the fact that we have paid Hawaii taxes since 1976, but we know that HB1706 will be bad for Hawaii, bad for owners, and for all the people that we now hire. The first 20 years that we owned our two condos we made no money at all. They were handled by a realtor. Also they had very low occupancy rates because the realty company did little to promote or advertise them.

After one of our friends at the resort started a website we were able to manage the condos ourselves and increase our occupancy to over 80%. Now we send money to the tax people on a monthly basis instead of quarterly as before. We've just spent \$40,000 per condo remodeling (which went to locals), knowing that at our rate of occupancy we could justify spending that amount. Our guests appreciate the personal touches we can give them, and we are now friends with many of them. Both of us are in our 80's, and this income is vital. That will all end if a realtor gets back into our wallet. In addition HB1706 is illegal/unconstitutional. We would rather pay more taxes than pay a realtor. Alternatively, we could sell. Then there will be no more monthly tax checks arriving in Oahu, and our renters will go to the Caribbean. Please realize what a bad bill this is, costing Hawaii millions of dollars in lost taxes. Instead crack down on those not paying their taxes, residents and non-residents alike.

Sally and Jack Nisbet

Valley Isle Resort

Lahaina, Maui

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bill Hazelett

Organization: Individual

E-mail: bhazelett@hotmail.com

Submitted on: 3/27/2012

Comments:

Having an on island management company does not insure that the proper taxes are collected and paid over to the State. I have personally experienced management companies that did not know how to figure and pay over the correct amounts. I then took it over myself and it is being paid correctly and on time. Rather than a new law, the Hawaii tax people should enforce what is currently on the books. I believe it is easier for an individual that is renting his Ohana or second home that lives on the island to collect cash and not pay the proper taxes than for someone off island trying to do so. I don't believe this law will generate any additional tax revenue and it could very well increase the commissions for owners who are renting there condo's and houses which ultimately could cause them to sell them and further deteriorate the housing market and lower the assessed valuations for property taxes.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bonnie Pauli

Organization: South Maui Condos Owner Direct Rental Network

E-mail: bonnie@mauiownercondos.com

Submitted on: 3/19/2012

Comments:

As the owner of a legal vacation rental and manager of an online directory advertising other South Maui by owner legal rentals I have no problem supporting the intent of this bill but have several concerns. The bill is perhaps unnecessary and there are changes that could be made to it via amendment that could be dangerous to Hawaii's tourism industry and economy.

1. The Landlord Tenant Code HRS 521-43(f) already requires us to make the name of our agent available to the tenant. This information is already collected by our AOA as requesting that any owner comply with the law and supply the name of that agent appears to be a reasonable exercise of the Board's power to manage the operation of the property. The definition of agent in this code is a real estate broker or sales person, unless that agent meets the definition of "custodian or caretaker" under the real estate licensing law.

IS this bill suggesting that the Landlord Tenant Code does not apply to those of us in HOTEL zoned condos governed under HRS 514a and 514b? I do not believe that 514A and B are the appropriate codes for this information - it already exists appropriately in HRS 521.

2. I am quite concerned that should this bill go forward it may be changed to reflect the rental agent be a licensed real estate professional. Any requirement for a person other than a DESIGNATED LOCAL CONTACT threatens the right of an owner to operate a rental business from their own property. I would like to see this definition applied to other codes as well.

As pointed out in Testimony on SB2089 SD1 forcing an owner to spend 20-40% of income to hire someone to do a job the owner is already doing well would mean there would be no money to pay the many local workers affected by that rental and would have a disastrous effect on the economy of Hawaii. It would take money from many to give to one group, remove many homes from the rental pool, force owners to sell at distressed prices and affect investment here for years to come. Those homes left in the rental pool would not be maintained at the same level as homes lost to the pool - how could they be when owners are forced to take money they used to reinvest in the home and pay it to a management company, rental agent, etc...

Hawaii is not Argentina but changing the rules governing rentals affects the business plans of owners who purchased under different rules and can effectively cause bankruptcies, short sales and more. Investors shy away from Argentina as the government there has nationalized properties that make money - It would be short sighted for the State not to believe a similar reaction due to government

intervention might happen in Hawaii. Rather than collect more taxes, tax revenue would plummet.

All this because the State decided to create a monopoly for one industry. Enforcing current statues is what is really needed - not more laws.

Perhaps a more effective use of 514A and B to insure compliance of existing laws would be to require the AOAOs to supply occupancy information for all their units to the State - This information is collected already because of insurance requirements. That would seem to be the missing item in the equation - are owners paying taxes on all days a rental is occupied by someone other than the owner.

I make my contact information readily available on my website - even when I am off island (on island contact information is already available to all my renters in the condo and via emails prior to arrival). I have been contacted late at night by people who have rented from realtors and management companies. The arrival contact phone numbers supplied were not being answered after hours. These renters have not been able to find the information they need to access the condo rented either in their packets or online but they are able to find me. I now have a series of numbers for off island contact for different companies that I provide when called...

it was not the intent of the originating company to not be found but life is not perfect and mistakes happen. As ambassadors to Hawaii those of us who want a viable business must help each other and all renters. For the most part you'll find more caring and reaching out among owner rentals than others - it's just because we are so personally involved - it's a different level of contact and right now the market place is responding to that too.

Just last week I was contacted by a renter who had one of 3 reservations she had made with the largest management company here in Wailea cancelled. The renter is not sure if it was her mistake or the management company's but she was left with a one bedroom instead of the necessary 2 bedroom for a week in March, Her contact with the company she had booked through was polite but could not provide a viable alternative. The renter was disappointed but especially because the contact showed no empathy to the renter's plight and certainly didn't want to assume any responsibility. I was contacted and though we may not have been completely successful in helping find a property, the renter commented on how different it was to deal with an owner - she had not considered this in the past and said in the future she would deal only with an owner.

Please keep options open for off island owners who rent - we are among the best ambassadors Hawaii has.

Dear Legislators,

We submit the following as Late Testimony. We have found on the Hawaii.gov website a document which is the Hawaii State Department of Taxation Annual Report for the years 2009-2010. Date of publication is November 4, 2011. It is written to Governor Neil Abercrombie and is from the Director of Taxation, Frederick Pablo.

This 60 page document includes background on cases in litigation for alleged violation of compliance in remittal of Transient Accommodations Tax. Of the 57 cases cited, 96% are with Management Companies who consist of Property Managers, Hotels, Time Share operators and other similar interests. Only 3.5% of the litigations involve individuals. The immensely disproportionate level of litigations are of cited instances with Companies or Management firms.

This does not support or substantiate in any way that the best place to put DOT resources or the current focus of legislative bills solely with the group of non-resident owners self managed vacation rental. In fact it would appear that the legislative solutions being proposed, to require that non-resident owners turn over their properties to Property Management interests will result in the opposite stated effect of improving tax remittances.

The document for your reference is on this link:
<http://www6.hawaii.gov/tax/pubs/annual/10annrpt.pdf>.

Thank you for the opportunity to provide information on this matter. We oppose HB1706, HB1707, HB2078 and SB2089 based on the above facts available to the legislators.

Elen Stoops

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Catherine Eckel

Organization: Individual

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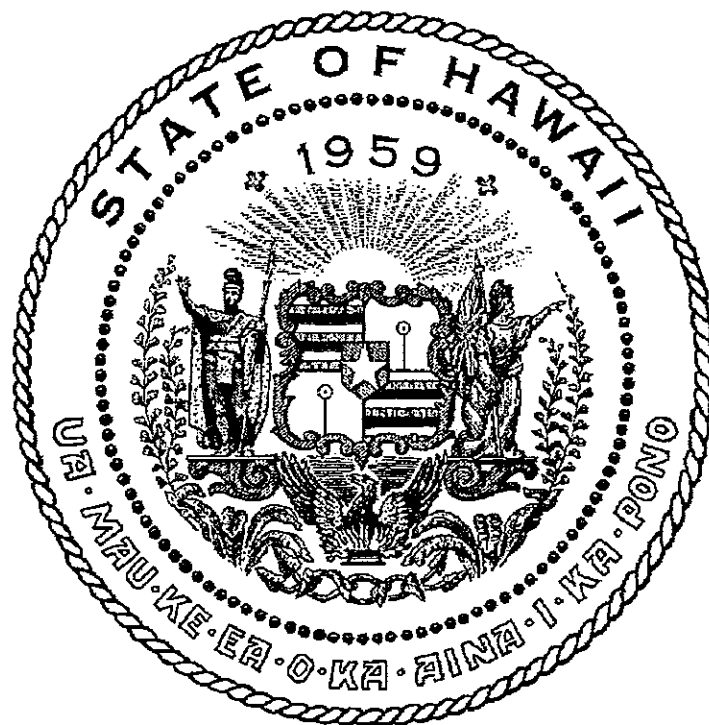
Submitted on: 3/27/2012

Comments:

The Department of Taxation 2009-2010 Annual Report lists approximately 55 court cases involving Transient Accomodation Tax brought against management companies compared to only 2 brought against individuals.

This suggests that management companies are by far a much more significant TAT problem than individuals.

DEPARTMENT OF TAXATION
STATE OF HAWAII



ANNUAL REPORT
2009–2010

November 4, 2011

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
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November 4, 2011

The Honorable Neil Abercrombie
Governor, State of Hawaii
Executive Chambers, State Capitol
Honolulu, HI 96813

Dear Governor Abercrombie:

I am pleased to present you with the attached Annual Report of the major accomplishments of the Department of Taxation for the fiscal year ending June 30, 2010. During the fiscal year covered by this report, Stanley Shiraki succeeded Sandra Yahiro as the Deputy Director on July 9, 2009. He subsequently succeeded Kurt Kawafuchi and became Acting Director of Taxation on June 15, 2010; Ronald Randall was appointed as the Acting Deputy Director.

The Department of Taxation is responsible for collecting the majority of the revenues for funding the services and programs provided by the State of Hawaii. While customer demand for tax assistance continued to increase, the Department could not provide the staffing to meet the demand because of the reductions in personnel and budget. The lack of adequate staffing resulted in delays in responding to taxpayers' waiting in lines as well as replying to telephone inquiries and correspondence. The public's discontent with the lack of prompt service was escalated when it was announced that there would be a delay in paying tax refunds, a budgetary measure that was taken to move payments into the next fiscal year. Throughout this difficult time, every employee had a role in implementing revenue generating programs, and they did so while also maintaining a high level of customer service. Their collective success is a reflection of the dedication and commitment to public service of both our line and supervisory staff.

Additional phases of the Non-Filer Project, a component of the Delinquent Tax Project, continued through fiscal year 2010. The Non-Filer Project resulted in additional collections of more than \$43 million in fiscal year 2010. The Department also published temporary administrative rules, held meetings with various stakeholders, developed forms, and took other steps to implement the new cash economy enforcement provisions of Act 134, Session Laws of Hawaii 2009. The intent of this Act is to level the playing field between compliant businesses and those that hide taxable income by engaging in unrecorded cash transactions.

Work to enhance the electronic filing of various tax returns and other documents and to integrate fuel, liquor, tobacco, and other miscellaneous taxes into the Department's Integrated Tax Information Management System (ITIMS) is ongoing. Significant progress has been made on the

The Honorable Neil Abercrombie
November 4, 2011
Page 2

development of the Audit Model Data Warehouse, which will allow the Department to better target its limited audit resources.

A net total of \$5.1 billion was collected in fiscal year 2010, an increase of 3.9% over the \$4.9 billion that was collected in fiscal year 2009. The increase, however, is largely attributable to the delay in paying most income tax refunds, a budgetary measure that was taken by the last Administration to move payments into the next fiscal year in order to balance the budget for fiscal year 2010.

If the \$186.1 million in delayed individual income tax refunds and \$1.3 million in delayed corporate income tax refunds had been timely released in fiscal year 2010, then actual revenues for the fiscal year would have been \$4.9 billion, which is unchanged from total fiscal year 2009 tax collections. Of the total tax collected, \$4.4 billion (85.0%) was deposited into the State's General Fund.

The 2011 fiscal year brought with it a new day for Hawaii. As your administration moves the State towards a brighter future, you can be assured that the dedicated employees of the Department of Taxation will continue to do their part to provide the highest possible level of public service.

Sincerely,



FREDERICK D. PABLO
Director of Taxation

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THE YEAR IN REVIEW

TAX SERVICES AND PROCESSING DIVISION

The Tax Services and Processing (TSP) Division consists of three branches: (1) Document Processing, (2) Taxpayer Services, and (3) Revenue Accounting. Each branch's objectives are unique to its specific functions, with an overall division objective to perform all functions relating to the centralized processing, editing, and controlling of tax information through paper documents or electronic data; receiving, securing, depositing, and accounting for tax payments; and functions relating to account management, licensing, and providing taxpayer services to the public.

In these challenging economic times, the mission and focus of the TSP Division remain, as always, the timely and efficient processing of tax returns and payments as well as providing efficient customer assistance. The dedication and commitment of all TSP employees who, on a daily basis, work together to ensure that our services are provided in a consistent, fair, and timely manner is a testament to the phrase "*doing more with less.*" The dedicated employees and managers serving on the front lines of this division helped see us through a very challenging fiscal year.

During fiscal year (FY) 2010, the TSP Division continued to implement cost-cutting measures to mitigate the impact of budget cutting over the past two fiscal years, as did the rest of the Department. These measures, many of which were begun in FY 2009, included the statewide hiring-freeze and furlough Fridays, a two-thirds reduction of the temporary tax season workforce, the elimination of all overtime, and the overall reduction of operating expenses to a bare minimum. In addition, the TSP Division put forth an extraordinary effort to enhance Department revenue collections by diversifying and expanding the Delinquent Tax Project initiatives.¹

Using process change, technology, and our strategic vision, the TSP Division continues to improve upon its operations and to further enhance the Department of Taxation's Integrated Tax Information Management System (ITIMS) technology platform, especially in terms of electronic processing and the ITIMS Imaging System (IIS), which is an integrated scan, recognition, and storage platform for tax returns and other documents. In FY 2010, the Department expanded its electronic filing and processing (ELF) capabilities to include amended transient accommodation tax returns and amended general excise tax returns. Work to migrate the Department's Federal-State Joint Electronic Filing (JELF) program to the new federal Modernized e-Filing (MeF) application is also underway.

Selected paper tax returns and payment vouchers continue to be scanned into the IIS and the digital images stored in a repository during processing. In FY 2010, over 1.7 million paper returns and payments were processed through the IIS. The IIS allows staff to retrieve the digital images of tax returns and payments directly from the taxpayers' ITIMS tax account with the click

¹ Information about the Delinquent Tax Project initiatives is provided on page 13.

of a button, greatly enhancing the staff's ability to quickly resolve taxpayer issues at any district tax office.

The state-of-the-art IIS scanning and character recognition technology has enabled the Department to greatly reduce the time required for data entry. Of the total volume of 3.34 million documents processed in FY 2010, 53% were returns and payments processed through the IIS. Electronic processing accounted for 33% of the total volume, and 2D Barcodes accounted for another 10%. The time needed to post paper returns and process refunds should continue to decline as additional forms are migrated from the key-from-paper technology.

Document Processing Branch

The main function of the Document Processing (DP) Branch is to orderly process and control all tax returns and documents; receive, secure, deposit, and account for tax payments; and store, file, and retrieve such documents.

During FY 2010, the DP Branch processed 3.3 million returns and payments, 1.1 million (33%) of which were electronically transmitted. The 1.73 million payments processed totaled more than \$4.74 billion for the year.

Filing tax returns and other documents electronically through JELF or ELF allows tax return data to flow into internal systems with a minimal amount of manual intervention, which enhances operational efficiency. The use of both JELF and ELF to file returns increased in FY 2010.

Certain Hawaii Form N-11 and Form N-15 individual income tax returns can be electronically filed via the Department's JELF Program with the Internal Revenue Service (IRS). After 10 years, JELF is being phased out by the IRS and replaced with their new MeF application. In FY 2010, the number of Hawaii returns filed through JELF increased by 5% from 302,934 returns in FY 2009 to 317,984 returns in FY 2010.

The ELF program allows taxpayers to electronically file some general excise tax, transient accommodations tax, withholding, and income tax returns as well as certain extensions, payment vouchers and other documents via the Internet from the Department's website. In FY 2010, taxpayers used ELF to electronically file 475,613 returns and other documents, a 52% increase over the number filed in FY 2009.

In total, the DP Branch processed 45% of all returns and payments within seven calendar days in FY 2010, and 79% of all returns and payments, within 30 calendar days.

Taxpayer Services Branch

The three main functions of the Taxpayer Services (TPS) Branch are: (1) to provide efficient customer assistance and information on all taxes administered by the Department (Customer Inquiry); (2) to perform computer-based error correction activities to facilitate the expedient processing, posting, and updating of tax returns, payments, and other documents (Account

Management); and (3) to process, issue, and update all licenses and permits issued by the Department in a timely and efficient manner (Licensing).

Customer Inquiry: 2010 Statistics:

For FY 2010, a total of 380,142 calls were received, of which 232,471 were handled either by the automated Interactive Voice Response (IVR) system or by a tax representative, for an overall call answer rate of 61%.

<u>Fiscal Year</u>	<u>Incoming Calls</u>	<u>Calls Answered</u>	<u>Call Answer Rate</u>
2010	380,142	232,471	61%
2009	364,804	291,228	80%
2008	284,217	228,875	81%

Much of the decline in the call answer rate for FY 2010 is attributable to the January through June 2010 income tax filing season, during which a total of 251,036 calls were received. Of those 251,036 calls, 34,170 (14%) were handled by the IVR system and 97,563 (39%) were handled by tax representatives. This resulted in an overall call answer rate for the 2010 tax season of 53%, which is significantly lower than the 88% overall call answer rate for the same period in 2009 when a total of 210,818 calls were received of which 185,329 were answered.

The significant increase in the call volume and the concomitant decrease in the call answer rate during this six-month period was directly attributable to: (1) the delay in issuing income tax refunds due to the State's fiscal situation and (2) the volume of the Delinquent Tax Project Non-Filer letters mailed to sole proprietors and other small businesses required to file semiannual general excise tax periodic returns as well as a general excise tax annual return and reconciliation for each tax year.

Due to the State's financial situation, the decision was made to delay the payment of state income tax refunds to the following fiscal year. Although some refunds were eventually released in late May 2010, taxpayers were unable to obtain automated refund status information through either the IVR or the Department's website during this time. The result was a flood of telephone calls from taxpayers asking when they should expect their refunds and other refund-related questions.

The Delinquent Tax Project initiative generated thousands of notices that were mailed to sole proprietors and other small businesses that failed to file all semiannual general excise tax returns or annual general excise tax returns as required. Notice recipients were largely unaware of the general excise tax filing requirements, and many had merely failed to file annual general excise tax returns on which no additional tax was due or to cancel their licenses when they stopped doing business. As a result, tax representatives spent a considerable amount of time with each caller to both educate them about the statutory filing requirements and to help bring them into compliance. Although there was a significant decrease in the call answer rate, the notices succeeded in generating additional tax revenue, educating taxpayers, and clearing Department records of noncompliant accounts and unneeded general excise tax licenses.

Account Management: Error Correction Statistics

During FY 2010, the Account Management Section corrected and posted to the Integrated Tax Processing System (ITPS) a total of 168,219 tax returns, payments, and other tax forms that were "worklisted" (i.e., removed from the processing cycle due to critical errors), which was comparable to the FY 2009 total of 168,826. The number of worklisted returns appears to have stabilized as the number of electronically filed returns has increased. Filing electronically minimizes the number of taxpayer errors, and the Department expects the number of returns requiring manual review and correction by Account Management to continue to decline as electronic filing increases.

Licensing: Statistics on Processing Business License Applications and Cancellations

The Licensing Section processed 32,497 Business License applications in FY 2010, of which 8,301 (26%) were submitted on-line through the Hawaii Business Express. It also processed 62,058 license cancellations, an increase of more than 100% over the 30,012 cancellations processed in FY 2009, which was itself an increase of 100% over the 15,000 cancellations processed in FY 2008. The tremendous increase in cancellations over the last three fiscal years was a direct result of the Delinquent Tax Project's Non-Filer initiative, which began in June 2008. The Non-Filer initiative prompted a surge in cancellation filings in response to 312,256 non-filer notices mailed since June 2008. During FY 2010, the Licensing Section also processed 2,133 renewals, statewide, of liquor, fuel, tobacco, and retail tobacco permits.

Revenue Accounting Branch

The main function of the Revenue Accounting (RA) Branch is to maintain revenue control and subsidiary ledgers. As such, the RA Branch controls, and is responsible for, all adjustment, error resolution, accounting, and reconciliation functions for all State tax revenues. Specific tasks include the preparation of the Preliminary Report, Statement of Tax Operations (STO), and related reports.

The Preliminary Report is a monthly, statewide summary of all revenues received by the Department, less the amount of tax refunds, which must be prepared by the fifth working day of each month. The STO is a formal, detailed report of State revenues that is based on the Preliminary Report and that must be prepared by the tenth working day of each month. The RA Branch met these urgent deadlines each month during FY 2010.

Secondary functions of this branch include statewide processing and manual accounting activities for all miscellaneous taxes except the estate and transfer tax; controlling and accounting for all State tax refunds resulting from either overpayments or adjustments; maintaining the statewide accounting records and preparing journal entries associated with the Delinquent Tax Project's administratively established trust account as well as the Special Enforcement Section's administratively established trust account; maintaining the manual accounting system for all protested payments and tax appeals; and handling all State refund exception activities (e.g., returned checks, tracers, forgeries, etc.).

COMPLIANCE DIVISION

The objective of the Compliance Division is to maximize taxpayer compliance with Hawaii's tax laws in a consistent, uniform, and fair manner. The Compliance Division is composed of the Oahu Office Audit Branch, Oahu Field Audit Branch, Oahu Collections Branch, and the Maui, Hawaii, and Kauai District Tax Offices. Three programs are established in the Division to meet the objectives of the voluntary compliance, self-assessment system: (1) auditing/examination, (2) collection, and (3) taxpayer services (information dissemination).

Auditing/Examination

To support the voluntary compliance, self-assessment system of taxation, the Office Audit and the Field Audit units performed the following examinations and audits during the fiscal year.

	<u>Office Audit</u>		<u>Field Audit</u>	
	Number of Audits <u>Completed</u>	Dollars <u>Assessed</u>	Number of Audits <u>Completed</u>	Dollars <u>Assessed</u>
Oahu	6,702	\$23,154,669	194	\$104,225,855
Maui	2,083	12,247,520	24	5,069,022
Hawaii	1,853	4,844,791	55	3,519,701
Kauai	<u>982</u>	<u>1,855,983</u>	<u>59</u>	<u>6,093,924</u>
Total FY 2010	11620	\$42,102,963	332	\$118,908,502
Total FY 2009	<u>22,521</u>	<u>87,936,431</u>	<u>373</u>	<u>158,060,626</u>
Difference	(10,901)	(\$45,833,468)	(41)	(\$ 39,152,124)

The Office Audit units decreased by 48.4% the number of audit cases closed in FY 2010 over FY 2009, and the total dollars assessed decreased by 52.1%. The Field Audit units decreased by 11.0% the number of audit cases closed in FY 2010 over FY 2009, and the total dollars assessed decreased by 24.8%. The dollar amount collected at the time the audits were closed and prior to the mailing of any billing notices increased from \$33.5 million in FY 2009 to \$48.0 million in FY 2010.

The decline in productivity was attributable to budget restrictions and cuts, employee furloughs, and the assignment of staff to special computer system development projects.

Criminal Tax Unit

Criminal Tax Unit investigations resulted in a number of referrals to the Criminal Justice Section of the Department of the Attorney General, which in FY 2010 filed indictments and complaints against 32 taxpayers. A total of \$42,500 in judicial fines and \$880,809 in tax assessments were imposed. In addition, the collector assigned to criminal cases collected \$1.8 million in taxes, penalty and interest charges, and fines. Additional information about criminal tax cases prosecuted is provided on page 34.

Special Projects

The Oahu Field Audit Branch conducted the following special projects during the fiscal year:

- Federal Contractors Project: This project, which targets unlicensed contractors working on federal installations, was started in 1983 and is an ongoing activity. This fiscal year, 18 audits were completed and resulted in \$5.6 million in assessments.
- Referral Cases from Criminal Investigation Unit: During this fiscal year, 20 cases that were either originally considered for possible criminal prosecution or arose pursuant to a criminal investigation were completed, resulting in \$3.5 million in assessments.

Special Enforcement Section

Act 134, SLH 2009, provided resources for the creation of a unique initiative to increase compliance by businesses conducting a significant number of difficult-to-trace cash transactions in what has been called the "cash economy." This newly created unit was formed and began conducting these high-risk and complex civil tax investigations in FY 2010 with the following initial results:

	<u>FY 2010</u>
Complaints Filed	140
Site Visitations (Statewide)	>500
Verbal Warnings Issued	11
Citations Issued	102
Fines Levied	\$36,032
Fines Paid	\$11,982
Total Dollars Assessed	\$7.5 million
Total Dollars Assessed Collected	\$1.2 million

Delinquent Tax Collections

The operations of Compliance Division's Tax Enforcement Program consist of the Oahu Collection Branch and the Collections Sections in the Maui, Hawaii, and Kauai District Tax Offices.

Combined tax collections for FY 2010 increased by \$40.2 million, from \$178.4 million in FY 2009 to \$218.6 million in FY 2010, a 22.5% increase.

A table of major performance measures for FY 2010 is presented below:

<u>Measure</u>	<u>FY 2010</u>	<u>FY 2009</u>	<u>Difference</u>	
			<u>Amount</u>	<u>%</u>
Total Delinquent Tax Balance (\$ Millions)	\$ 382.4	\$ 398.3	\$ (15.9)	(4.0)
Total New Delinquent Referrals (\$ Millions)	\$ 213.1	\$ 210.0	\$ 3.1	1.5
Total Cash Collected (\$ Millions)	\$ 218.6	\$ 178.4	\$ 40.2	22.5
Uncollectible Tax Write-Offs (\$ Millions)	\$ 10.4	\$ 8.3	\$ 2.1	25.3
Payment Plans Initiated	31,171	24,997	6,174	24.7
Tax Liens Filed	8,088	6,048	2,040	33.7
Levies Served	12,679	13,257	(578)	(4.4)

Taxpayer Assistance Provided

During FY 2010, the neighbor island district tax office personnel helped taxpayers properly file numerous tax returns and other documents over the telephone, at the service counter, and via correspondence. The Oahu Office Audit, Field Audit, and Collection units also provided support services to the neighbor island district tax offices and to the Oahu TPS Branch when requested.

The following summarizes the taxpayer assistance activities of the Maui, Hawaii, and Kauai District Tax Offices:

	<u>FY 2010</u>	<u>FY 2009</u>	<u>Difference</u>	
			<u>Amount</u>	<u>%</u>
Counter	78,586	76,488	2098	2.7
Phone Services	48,260	49,700	(1,440)	(2.9)
Tax Clearances	4,696	6,454	(1,758)	(27.2)
Correspondence	16,939	17,736	(797)	(4.5)

The reduction in telephone services is due to the centralization of customer services within the Oahu TSP Division and continued increases in efficiencies in processing resulting from the scanning of returns and improvements to electronic filing, forms design, and mail processes.

Decreases in correspondence were due to Department cost cutting in response to the decline in the State's economy, employee furloughs, unfilled vacant positions, changes in the tax law, etc.

The assistance provided to taxpayers is part of the Compliance Division's continuing emphasis on taxpayer education and problem resolution in all its contacts with taxpayers. The Compliance Division continues to believe in the importance of maintaining taxpayers' willingness to accurately and voluntarily comply with the State tax laws. This "taxpayer enabling and empowering activity" will continue to be emphasized.

STAFF OFFICES

Administrative Services Office

Fiscal Office

The Administrative Services Office submitted to the 2010 Legislature the supplemental budget for FY 2011. The Legislature appropriated \$20.8 million for FY 2011. This represents a \$2.6 million decrease in the appropriation from the General Fund, which was partially offset by a \$0.6 million increase in special fund ceilings.

The increase in special fund ceilings primarily funds the Special Enforcement Section (SES) whose mission is to carry out civil enforcement efforts targeting high-risk, cash-based transactions. The SES activities should generate the revenue needed to fund their operations; SES revenues in excess of \$500,000 will be transferred to the General Fund.

In discharging its duties and responsibilities, the Department of Taxation incurred operating expenses of \$19.7 million for FY 2010.

Personnel Management

The Department had 391.5 authorized permanent positions for FY 2010, which is the same number authorized for the previous fiscal year. Employees were geographically distributed as follows: Oahu, 326.5; Hawaii, 27; Maui/Molokai, 22; and Kauai, 16. For FY 2011, the Department has 364.0 authorized permanent positions distributed as follows: Oahu, 300; Hawaii, 27; Maui/Molokai, 21; and Kauai, 16.

Personnel actions included 1 new exempt hire, 6 retirements, 83 temporary hires, 2 promotions, and 13 resignations. Other personnel actions included temporary assignments of employees to higher levels.

STAFFING PATTERN (Number of Authorized Permanent Positions)

<u>By Organization/Operating Program</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
Headquarters Administration	62.0	66.0	66.0	74.0	67.0
Tax Services and Processing Division	123.0	138.0	138.0	138.0	110.0
Compliance Division	<u>179.0</u>	<u>187.5</u>	<u>187.5</u>	<u>195.5</u>	<u>195.5</u>
TOTAL	364.0	391.5	391.5	407.5	372.5

Rules Office

The Rules Office is currently comprised of the Rules staff and the Technical Section. The function of the Rules Office is to serve as a resource for complex policy recommendations and complex taxpayer support.

Rules Staff

The Rules staff serves as the Department's advisory arm to the Director of Taxation on tax policy and counsels the Director's Office and Department on legal and tax issues. The Rules staff also assists, counsels, and represents the Department's compliance personnel with tax disputes and other administrative tax controversies. For example, the Rules staff provided assistance and counsel to the Department's compliance function in settlement negotiations and closings, and appeared on behalf of the Department before the Boards of Taxation Review. Assistance was also provided to the Tax Division Deputy Attorneys General in support of the Department's tax cases being litigated.

For the 2010 legislative session, the Rules staff drafted and submitted seven administration-sponsored bills, which were submitted to both the House of Representatives and the Senate. Prior to the start of the legislative session, the Rules staff also reviewed and commented on proposed tax legislation submitted by other executive departments.

After reviewing 2,113 bills introduced to the 2010 Legislature, 1,151 House Bills and 962 Senate bills, the Rules staff determined that almost 200 measures proposed tax law changes and analyzed them in depth. These measures were also tracked throughout the legislative session. The Rules staff prepared approximately 196 written testimonies for measures scheduled for public hearings by legislative committees, 118 for the House and 78 for the Senate. Letters to legislative committee chairs were also drafted after the public hearings to respond to specific questions or to address certain concerns of committee members. In addition, the Rules staff was asked to submit comments and recommendations to the Governor on 19 bills passed by the Legislature with possible impact on the Department. Provisions of four of the Department's administration-sponsored bills became law in some form.

During the fiscal year, the Rules staff prepared letters for the Governor and the Director, announcements, tax information releases, letter rulings, directives, and other publications. During the fiscal year, the Rules Office issued six official Department of Taxation Tax Information Releases and 36 Department of Taxation Announcements. In 2009, the Department issued a policy of publicly releasing taxpayer letter rulings in redacted form. Letter rulings provide a legal analysis of the tax law as applied to a taxpayer's particular set of facts. Since 2009, the Rules Office has released 27 redacted letter rulings. The Rules Office issued two temporary administrative rules and two Tax Audit Guidelines for use by the Department's compliance personnel. The Rules Office also assisted in the Department's implementation of new legislation.

The Rules and Technical Section staff reviewed and certified 1,694 requests for the high technology business investment tax credit and 1,260 requests for the credit for research activities in accordance with Act 215, Session Laws of Hawaii (SLH) 2004. The Rules staff also responded to 17 requests for ruling on qualified high technology business activities.

The Rules staff also testified at legislative committee hearings on behalf of the Director, provided training for Department employees, and spoke at several workshops for practitioners.

Technical Section

The Technical Section answers questions received by telephone, e-mail, and correspondence, and reviews applications for certain tax exemptions. In FY 2010, 337 applications for an exemption from the general excise tax were filed by nonprofit organizations. Staff members approved 183 applications, returned 54, and have 148 pending further action. The staff also reviewed 3,931 requests for conveyance tax exemption.

A major responsibility of this section is the development and revision of tax forms and instructions to make improvements and to incorporate changes needed to conform to changes in Hawaii and federal tax law. During FY 2010, the Technical Section reviewed 380 tax forms and 54 instructions, and terminated 14 forms and two instructions that were determined to be obsolete.

The Technical Section staff also reviews, researches, analyzes, and provides comments and recommendations on the technical and procedural aspects of the drafts of legislative bills, administrative rules, and tax information releases. Staff also provided training for Department employees and spoke at several workshops for practitioners and new entrepreneurs.

Information Technology Services Office

The Information Technology Services (ITS) Office is responsible for the technical support of the Department's computerized tax systems, network, and related components.

During FY 2010 the ITS Office focused on the implementation of revenue related projects. Key projects included: (1) advancing the filing date of monthly, quarterly, and semiannual general excise tax returns from the last day of the month following the close of the period to the twentieth day pursuant to Act 196, Session Laws of Hawaii (SLH) 2009; (2) increasing the transient accommodations tax pursuant to Act 61, SLH 2009; (3) supporting the special enforcement section's actions targeting the cash economy pursuant to Act 134, SLH 2009; (4) accelerating the due dates of miscellaneous tax type returns to the twentieth day of the month pursuant to Act 22, SLH 2010; (5) temporarily delaying the release of tax refunds; and (6) continuing support for the Delinquent Tax Project Non-Filer initiative.

Other initiatives completed during FY 2010 include the annual system updates needed to conform to changes in income tax law, significant upgrades to the ITIMS hardware and software, consolidating to a new, single, mainframe printer, allocating staff to vendor-developed projects for the integration of miscellaneous taxes into ITIMS, and establishing the Audit Model Data Warehouse. The ITS Office also made significant upgrades to the Oahu, Maui, Hawaii (Hilo and Kona), and Kauai telecommunication hardware and software infrastructure to improve network service. New software to detect computer network performance problems was also implemented to better support Department services.

A number of projects that the ITS Office is actively involved with will continue into FY 2011. They include the joint federal-State electronic filing program migration from JELF to the new MeF electronic filing program, the Audit Model Data Warehouse project, the Delinquent Tax Project Non-Filer initiative, the IRS Safeguard Compliance project, and the miscellaneous taxes ITIMS integration project.

Tax Research and Planning Office

The following are the main functions of the Tax Research and Planning (TRP) Office: (1) prepare analytical and statistical reports on Department activities, including statewide tax collections, the income patterns of individual and business taxpayers, and tax credits claimed by Hawaii taxpayers; (2) help the Council on Revenues prepare forecasts of General Fund tax revenues and total personal income for State budget planning purposes; (3) develop tax plans to meet administrative policies and programs; (4) prepare reports on the revenue effects of proposed tax legislation for the governor, legislature, and other agencies; and (5) provide administrative and technical support for the Council on Revenues and, when they are in session, the Tax Review Commission.

In FY 2010, the TRP Office completed the Department of Taxation's *Annual Report 2008–2009*, which was published in July of 2010. In addition, the TRP Office worked on drafts of the following annual statistical reports: *Tax Credits Claimed by Hawaii Taxpayers 2006*; *Hawaii Income Patterns—Individuals 2006*; and *Hawaii Income Patterns—Businesses 2005*.

In addition to the statistical reports, the TRP Office compiled data on the high technology business investment tax credit and the tax credit for research activities claimed by individuals, corporations, financial corporations, fiduciaries and exempt organizations. Those data were published in *Descriptive Statistics on the Operations of Qualified High Technology Businesses From 2002 Through 2008, Addendum to the Report of September 2008* (September 2009), and *Impact of High Technology Business Investment Tax Credit on Hawaii's Economy for Calendar Year 2008* (December 2009).

The TRP Office also prepared the following reports on a monthly, fiscal year, and calendar year basis: (1) *State Tax Collections and Distributions*; (2) *Revenue Trends*; (3) *General Excise and Use Tax Collections*; (3) *Liquid Fuel Tax Base and Collections*; (4) *Liquid Fuel Tax Allocation by Fund*; (5) *Liquor Tax Collections and Permits*; and (6) *Tobacco Tax Collections and Licenses*.

For the 2010 Legislative session, TRP staff reviewed and tracked tax-related legislative bills and resolutions, and prepared estimates of the tax revenue impacts of proposed and final drafts of more than 240 bills. Tax revenue impact estimates were also prepared for proposals as requested by the Administration, legislators and others.

Because Hawaii's economy remains fragile, administrative and technical support provided to the Council on Revenues (COR) in producing long-range and short-range forecasts of General Fund tax revenues assumed even greater importance this fiscal year.

The seven members of the COR are responsible for forecasting State revenues and the State's total personal income. The COR's forecasts of State revenue for the current and six subsequent fiscal years are required on September 10, January 10, March 15, and June 1 of each year. The forecasts are used by the Governor and Legislature to develop and administer the State's budget. The COR's forecasts of total personal income for the current and immediately following calendar years are required on August 5 and November 5 of each year; the State's growth rate (the average annual percentage change in Hawaii total personal income for the preceding three calendar years) is used to set the State General Fund expenditure ceiling.

TRP staff used advanced econometric modeling techniques, State tax data, and other economic data to prepare materials to assist the COR in making its forecasts. Taking into account the State's decision to delay the payment of most State income tax refunds until the following year, the COR forecast 4.0% increase in State General Fund tax revenues for FY 2010; actual revenues were \$4,364.6 million, a 3.9% increase over FY 2009. The COR also forecast no increase (0.0%) in the State's total personal income for calendar year 2009; in June 2010, the U.S. Bureau of Economic Analysis reported that the State's total personal income for calendar year 2009 was \$54.3 billion, a 0.24% increase over calendar year 2008.

In order to improve the State General Fund tax revenue forecasts, an effort was begun in FY 2008 to obtain a new econometric model for forecasting General Fund tax revenues. Using funding provided by Section 120 of Act 213, SLH 2007, a new econometric model was developed in FY 2009 through a contract with UCLA Anderson Forecast. TRP economists were trained on the use of the new model in August 2009, and used the new model alongside the previously existing model for all COR meetings to forecast State General Fund tax revenues this fiscal year. Due to budgetary constraints, additional work on the model was not funded.

Taxpayer Advocacy Program

The Taxpayer Advocacy Program is administered by the Department's Taxpayer Advocate under the direction of the Director of Taxation to assist taxpayers who are unable to resolve their problems through the normal channels. The Taxpayer Advocate also identifies and addresses systemic and procedural problems and recommends corrective changes. This program is a one-person operation focusing on the unique needs of each taxpayer requiring assistance while simultaneously identifying issues that impact multiple taxpayers.

During FY 2010, the Taxpayer Advocacy Program helped 305 taxpayers resolve tax matters that included erroneous billings, non-receipt of refunds, waivers of penalty and interest charges, verifications of tax liabilities, non-filer letters and non-filed returns, collection issues, difficulty accessing the Call Center, e-filing issues, tax clearance issues, and delays in responses to inquiries. Additional cases did not require intervention, but were instead resolved by providing the taxpayers with general tax information, explanations of letters and assessments, or a referral to appropriate management personnel.

The Taxpayer Advocate identified systemic issues with several manually-generated and computer-generated notices in FY 2010, and recommended a thorough review of these notices.

The Taxpayer Advocacy Program also coordinates a joint outreach project with various partners to provide tax services to communities that do not normally have access to these services. A variety of tax services are provided, including the acceptance of general excise tax license applications, assessment notice explanations, payment plan arrangements, voluntary compliance, penalty and interest waivers, individual income tax and general excise tax return preparation, and assistance with general tax questions.

During the 2010 tax season, the Department partnered with the AARP's Tax Aide Program to bring tax assistance to the Waianae community on Oahu. Volunteer Tax Aide Program counselors are trained and certified by the IRS to assist the elderly, low-income, limited-English speaking, or disabled taxpayers in the preparation of their federal and State income tax returns. Approximately 75 taxpayers were assisted at this joint outreach event. At each outreach event, the Taxpayer Advocate was on hand to assist taxpayers with their questions and with the resolution of their tax concerns. In past years, the Department also partnered with the AARP to provide tax assistance to the Molokai community; due to budget constraints, however, the Department was unable to participate this fiscal year.

In general, the majority of the taxpayers were satisfied with the outcome of their cases regardless of whether a decision was made in their favor. The Taxpayer Advocacy Program focuses on taxpayers' needs while maintaining taxpayer confidence that Hawaii's tax laws are administered in a consistent, uniform and fair manner.

SPECIAL REVENUE-GENERATING INITIATIVES

As the challenging state of the State's tax revenues has continued, the Department has strived to find new and innovative methods to provide needed revenues for the State coffers. In fiscal year 2010, the Department continued its Delinquent Tax Project initiatives, and also instituted a program to allow voluntary disclosure of offshore bank accounts. Although both initiatives required the participation of various areas of the Department, the bulk of the additional workload was mostly borne by the TSP Division and the Compliance Division.

Delinquent Tax Project

The Delinquent Tax Project has three main objectives: (1) to encourage taxpayers to timely file their tax returns and pay the tax owed as required (i.e., to encourage voluntary compliance through education and other means); (2) to enhance the Department's ability to collect taxes legally owed to the State; and (3) to clear the business account registration rolls of accounts that are no longer active by encouraging taxpayers to cancel unneeded accounts. Although ambitious, the project was begun in June 2008, with required ITIMS enhancements financed through the delinquent taxes collected. The first phase was the Registered Business Non-Filer Project, which was implemented in June of 2008.

In FY 2010, the Department continued on with the second phase of the Non-Filer Project, collecting additional revenues from non-filers through an ambitious letter campaign. From August 2009 through mid-2010, over 200,000 letters were mailed to a broad population of general excise tax licensees who failed to file an annual general excise tax return for one or more years during the period from tax year 2001 through tax year 2008. In November 2009, for the first time, the focus shifted to registered employers who had not filed withholding tax returns, and over 40,000 letters were mailed to these employers. These initiatives resulted in additional collections in excess of \$43 million in general excise and employers' withholding taxes for the fiscal year ended June 30, 2010. Cumulatively, total revenues generated by the highly successful Non-Filer Project through the end of fiscal year 2010 exceeded \$87 million in additional taxes for the State.

Voluntary Disclosure of Undeclared Offshore Bank Accounts

The project was a concurrent voluntary disclosure program for taxpayers participating in the Internal Revenue Service (IRS) voluntary disclosure program for undeclared offshore bank account income. In March 2009, the IRS announced guidelines for taxpayers to disclose unreported income generated through undeclared offshore bank accounts located in countries outside the United States.

On August 6, 2009, Tax Information Release (TIR) No. 2009-03 was issued with the Department's guidelines for taxpayers to also make voluntary disclosures with Hawaii. The taxpayer was required to initiate contact with the Offshore Voluntary Disclosure Coordinator who determined the taxpayer's eligibility for the Hawaii program. Taxpayers submitting a voluntary disclosure pursuant to the TIR were generally not referred to the Department for criminal prosecution and were not assessed any civil penalties on any timely and complete submissions.

The original deadline for the program was September 23, 2009. On September 21, 2009, the Department issued Department of Taxation Announcement No. 2009-28 extending the deadline to October 15, 2009.

The program generated responses from a total of 24 taxpayers who came forward by the expiration date. There were 16 taxpayers who submitted a total of 54 amended returns totaling \$288,069, of which \$225,947 was for tax and \$62,122 was for the payment of interest.

Beginning October 1, 2009, any taxpayer audited by the Department that had adjustments to Hawaii taxable income due to unreported foreign bank account income would be subject to all civil penalties, including 50% civil fraud, 25% negligence and 20% substantial understatement penalties and possible referral to the Department's Criminal Investigation Unit.

MANAGEMENT PERSONNEL
(FY 2009–2010)

OFFICE OF THE DIRECTOR

Director of Taxation..... Stanley Shiraki
Acting Deputy Director of TaxationRonald Randall

STAFF OFFICES

Rules Officer..... Johnnel Nakamura
 Technical Section Supervisor: Denise Inouye
Tax Research & Planning Officer..... Vacant
 Senior Economist Yvonne Chow
Information Technology Services Officer Robert Su
Administrative Services Officer Suzanne Ephan
 Personnel Officer..... Sharon Iwamura
Taxpayer Advocate Fern Elizares

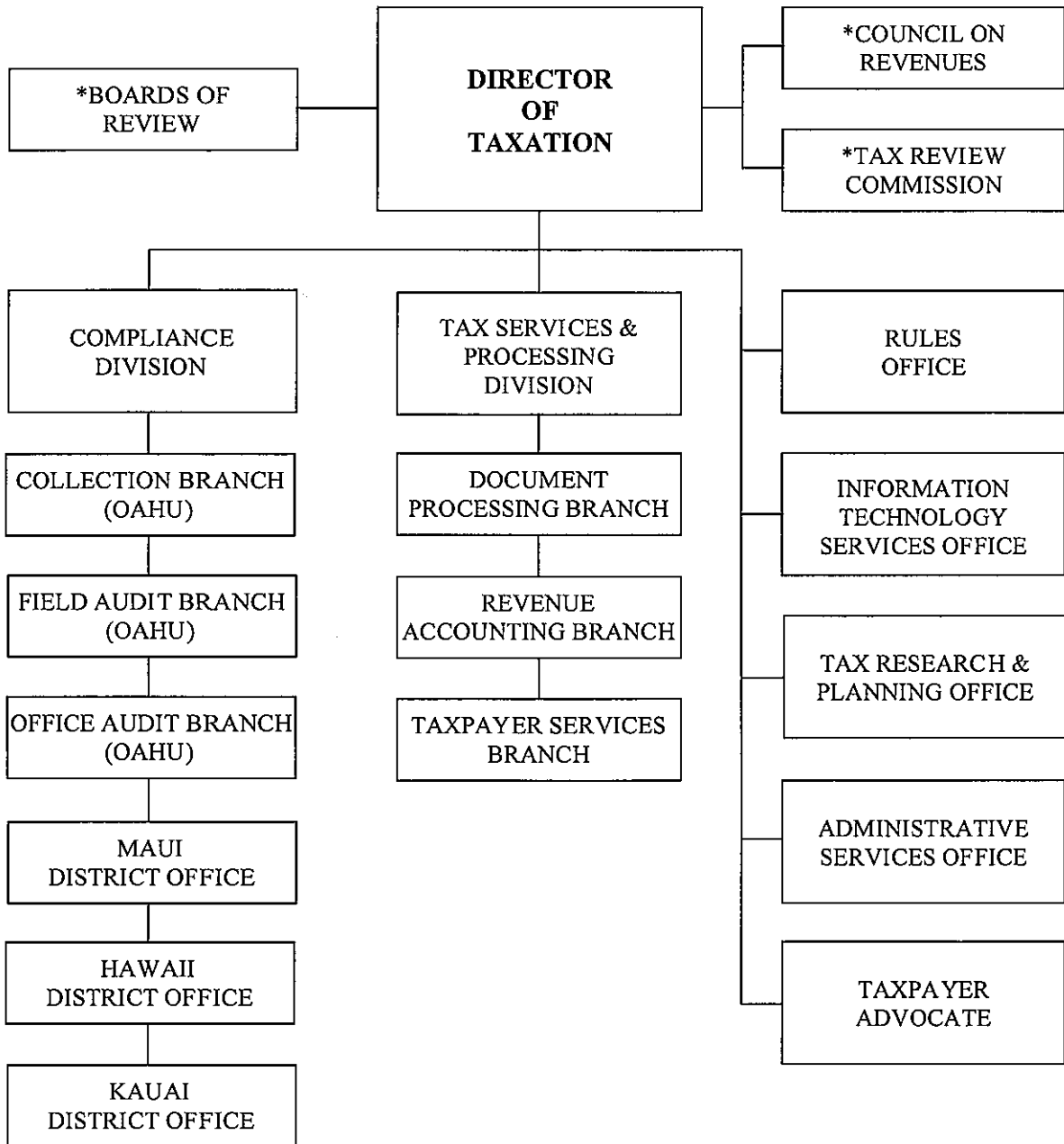
OPERATIONS STAFF

Compliance Division Chief.....Ronald Randall
 Tax Audit Technical Coordinator..... Vacant
 Tax Collection Technical Coordinator Vacant
 Oahu Field Audit Branch Chief..... Gayle Nakagawa
 Oahu Office Audit Branch Chief..... Vacant
 Oahu Collection Branch Chief Lynne Kaneta
 Maui District Tax Manager Wayne Fujita
 Hawaii District Tax Manager Roy Hamakawa
 Kauai District Tax Manager Dulcie Yano

Tax Services and Processing Division Chief.....Joan Bolte
 Taxpayer Services Branch Chief.....Annette Yamanuha
 Acting Document Processing Branch Chief..... Sharon Sawamoto
 Revenue Accounting Branch Chief..... Deanne Obatake

ORGANIZATION CHART

Department of Taxation
State of Hawaii

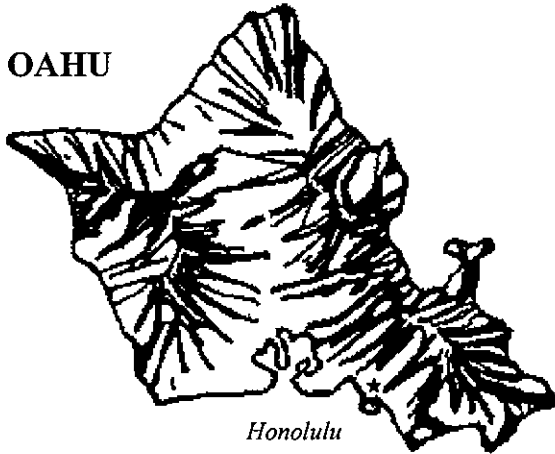


*For Administrative Purposes

FIRST TAXATION DISTRICT

City & County of Honolulu

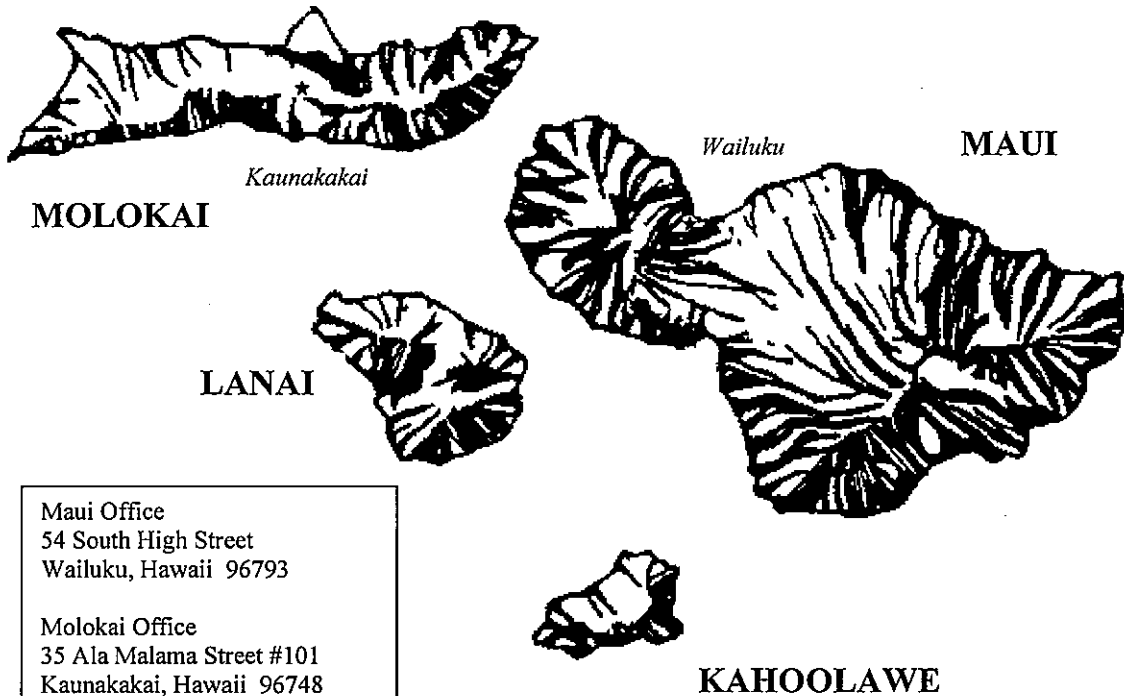
OAHU



Oahu Office
830 Punchbowl Street
Honolulu, Hawaii 96813

SECOND TAXATION DISTRICT

Counties of Maui and Kalawao



Maui Office
54 South High Street
Wailuku, Hawaii 96793

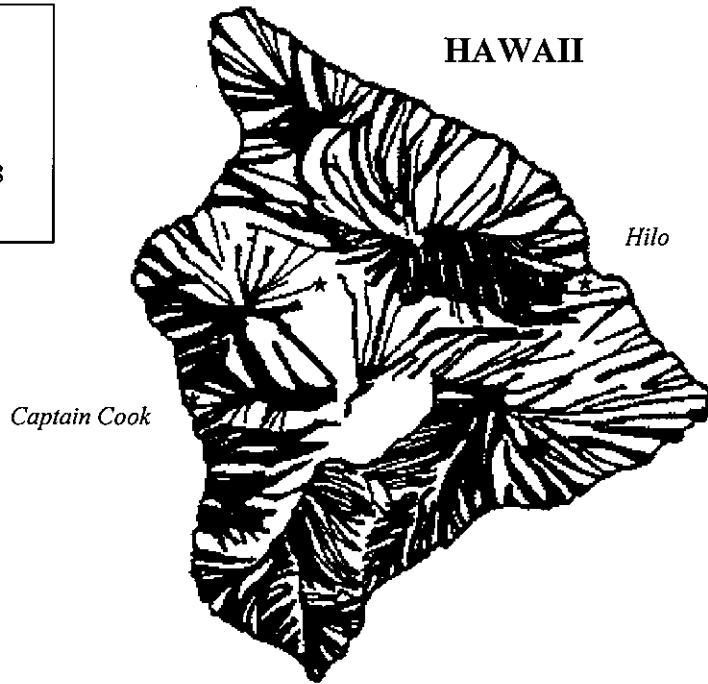
Molokai Office
35 Ala Malama Street #101
Kaunakakai, Hawaii 96748

THIRD TAXATION DISTRICT

County of Hawaii

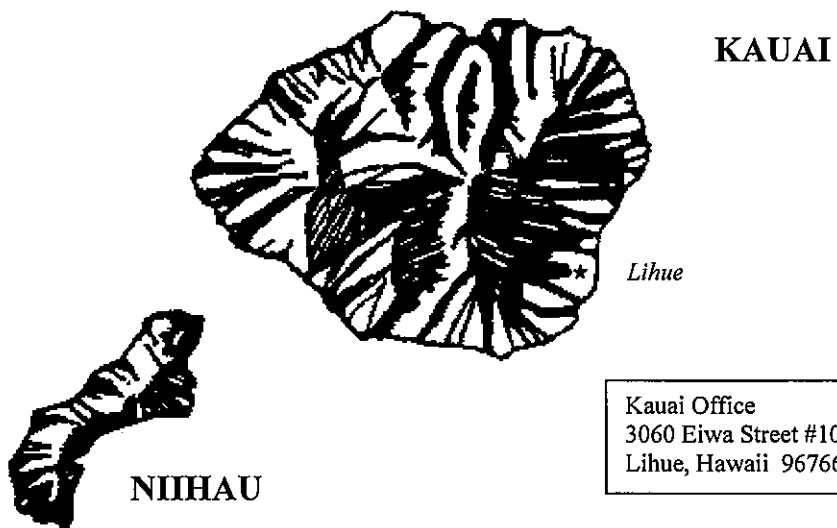
Hilo Office
75 Aupuni Street
Hilo, Hawaii 96720

Kona Office
82-6130 Mamalahoa Highway #8
Captain Cook, Hawaii 96704



FOURTH TAXATION DISTRICT

County of Kauai



Kauai Office
3060 Eiwa Street #105
Lihue, Hawaii 96766

TAX APPEALS AND LITIGATION

BOARDS OF TAXATION REVIEW

Each taxation district has an administrative (i.e., non-judicial) Board of Taxation Review consisting of five members. Tax disputes that are not resolved at the district tax office level may be appealed to a Board of Taxation Review unless the dispute involves the Constitution or laws of the United States. Statewide, the boards began the fiscal year with 122 pending tax appeals. During FY 2010, 74 new appeals were filed, 55 appeals withdrawn, and 14 appeals settled; a total of 127 appeals to the Boards of Taxation Review were pending at the end of the fiscal year.

The following table details appeals to the Boards of Taxation Review by taxation district:

<u>Taxation District</u>	<u>First (Field Audit)</u>	<u>First (Office Audit)</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Total</u>
Appeals Pending (Beginning)	90	5	2	13	12	122
New Appeals	25	20	13	10	6	74
Appeals Withdrawn	24	11	7	3	10	55
Appeals Settled	9	2	0	0	3	14
Appeals Pending (Ending)	82	12	8	20	5	127

CIVIL DECISIONS, SETTLEMENTS, AND OTHER LEGAL MATTERS

During FY 2010, the Tax Division of the Department of the Attorney General closed 882 legal matters related to the Department of Taxation, excluding legislative matters that have not yet been closed in the case management system by the Department of the Attorney General's Legislative Division. Also not included are all the charitable oversight, charity registration, and charitable solicitation matters the Tax Division routinely handles.

<u>MATTERS CLOSED</u>	<u>AMOUNTS COLLECTED²</u>
Appeals	Tax Appeals \$ 16,176,671
Bankruptcies	Foreclosures 42,911
Contracts	Bankruptcies 511,125
Foreclosures	Trusts 0
Legislation.....	Miscellaneous 312,204
Opinions.....	TOTAL <u>\$17,042,910</u>
Quiet Title	
Subpoenas	
Miscellaneous	

² The Tax Division of the Department of the Attorney General also secured the dismissal of several tax appeals that would have potentially resulted in refunds to taxpayers from the General Fund and won cases on appeal that will have fiscal impact on similarly situated taxpayers and result in future tax collections that are impossible to forecast.

Settled Cases

Tax Appeal Court

Make-up Arts Cosmetics, Inc. v. Director of Taxation, State of Hawaii, T.A. No. 03-0259, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the general excise tax as follows: 0.5% for the wholesale of make-up products sold, 4% on services provided at its counters in the stores, and 4.5% on the import and sale of furniture and fixtures. The Court granted partial summary judgment for the Taxpayer. The parties reached a settlement on the remaining issues, and the tax appeal will be dismissed.

In the Matter of the Tax Appeals of First Hawaiian Insurance, T.A. Nos. 07-0101 and 07-0103, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the tax credit for research activities provided under § 235-110.91, HRS. The Department argued that, among other things, Taxpayer's work did not qualify for the research credit because it did not meet the requirements imposed by § 41, Internal Revenue Service (IRC), which is made operative for State tax purposes by § 235-110.91, HRS. The case was settled.

In the Matter of the Tax Appeal of Charles Schwab, Inc., T.A. No. 08-0013, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on commissions it earned on sales of financial products. Taxpayer claimed that the bulk of the commissions were passed on to the Hawaii brokers and should not be included in its gross receipts. The amount in controversy was \$1,811,867.07. The case was settled.

In the Matter of the Tax Appeal of Medical Underwriters, T.A. No. 08-0014, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the 4% general excise tax on income from providing management services to certain insurance companies. Taxpayer filed an appeal challenging the calculations of the assessment, arguing that only the income from services that are performed in Hawaii is subject to the 4% tax. The Department's position is that all services that are attributable to Hawaii, whether rendered inside or outside Hawaii, are subject to tax. The parties reached a settlement on the remaining issues, and the tax appeal will be dismissed.

Marriott Cases, T.A. Nos. 08-0032, 08-0033, 08-0034, 08-0045, 08-0047, 08-0048, 08-0049, 08-0050, 08-0051, 08-0053, 08-0054, 08-0055, 08-0056, 08-0057, 08-0058, 08-0059, 08-0060, 08-0061, 08-0062, 08-0063, 08-0064, 08-0066, 08-0067, 08-0068, 08-0069, 08-0071, 08-0076, 08-0078, 08-0079, 08-0080, 08-0116, 09-0061, 09-0065, 09-0066, 09-0077, and 09-0081, Tax Appeal Court, State of Hawaii.

Various Marriott entities filed tax appeals challenging the Department's assessments of general excise and transient accommodation taxes on the Marriott Rewards Program and

preview packages program, as well as the imposition of the general excise tax on certain management fees, retail sales, royalty income, maintenance fees, and tidy room fees. One entity challenged the assessment related to its income tax return with respect to the dividends received deduction, captive insurance income, the disposition of assets, refund adjustments, the hotel construction and remodeling credit, and the capital goods excise tax credit. Various entities challenged the imposition of penalties and interest, the imposition of tax on reimbursements, and that certain credits and liabilities should be offset with other entities. All parties reached a global settlement on all issues, and the respective tax appeals were dismissed.

In the Matter of the Tax Appeals of Worldmark, The Club, T.A. Nos. 08-0072 and 08-0073, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for income received from its operations of timeshare properties in the State. The Department's assessments were estimates based on income apportioned to Hawaii on Taxpayer's income tax returns. The case was settled.

In the Matter of the Tax Appeal of Moffatt & Nichols, Engineers, T.A. No. 08-0096, Tax Appeal Court, State of Hawaii.

Taxpayer appealed the Department's assessments on gross business income, claiming that out-of-state services should be apportioned, that it deserves the intermediary rate for services, and that it paid Washington State excise taxes for which it is entitled to a deduction. The case was settled and a stipulation to dismiss filed.

In the Matter of the Tax Appeals of Old Republic, T.A. Nos. 09-0016 and 09-0068, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed penalties and interest for the late filing of HARPTA withholding returns per § 235-68, HRS. Under Hawaii law, buyers of real property from out-of-state sellers are required to withhold a portion of the sales price to ensure that the State collects the proper amount of taxes from the out-of-state seller. Old Republic was the company that handled escrow for the property sales at issue and was representing the buyers in these appeals. The case was settled.

In the Matter of Watabe Wedding Corporation, T.A. No. 09-0036, Tax Appeal Court, State of Hawaii.

Taxpayer appealed the denial of a tax refund on the grounds that it was exporting tangible personal property and/or not conducting services in the State. The case was settled and a stipulation to dismiss filed.

In the Matter of the Tax Appeal of Jack L. Phillips, T.A. No. 09-0040, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for amounts he received from properties located within the State. Taxpayer claimed that the disputed income was not taxable because it was from the furnishing of long-term rentals that are not subject to the transient accommodations tax. Taxpayer also claimed that the

income was exempt from § 237-29, HRS, because the properties at issue were low-income housing units. The case was settled.

In the Matter of the Tax Appeal of Eric and Amanda Horst, T.A. No. 09-0055, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional income tax, penalties, and interest for taxable years 2005 through 2007. Taxpayers claimed that the Department's assessments were erroneous because: (a) the disputed income was earned outside the State; and (b) if the income was taxable, the Department improperly disallowed Taxpayer's claims for certain deductions. The case was settled.

Completed Cases

Intermediate Court of Appeals

In the Matter of the Tax Appeal of CompUSA, S. Ct. No. 29597, Intermediate Court of Appeals, State of Hawaii.

The Department assessed use tax on Taxpayer's importation of products for resale to the general public for the period July 1, 1999, through December 31, 2002. Taxpayer claimed that the assessments were incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). The Tax Appeal Court ruled that Taxpayer was subject to the use tax on the value of goods it purchased outside Hawaii, imported into Hawaii, and resold to the public. The Intermediate Court of Appeals issued a memorandum opinion on May 28, 2010, ruling in favor of Taxpayer, reversing the Tax Appeal Court's decision, and remanding the case back to the Tax Appeal Court. The Court determined that Taxpayer was not subject to the use tax on the value of goods it imported into Hawaii because the factual circumstances were similar to that of the taxpayer in In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004).

Reel Hooker Sport Fishing, Inc. vs. Department of Taxation, State of Hawaii; Exact Game Fishing, Inc. vs. Department of Taxation, State of Hawaii; Finest Kind, Inc. vs. Department of Taxation, State of Hawaii, S. Ct. No. 29598, Intermediate Court of Appeals, State of Hawaii.

Taxpayers filed a complaint for a refund of a tax payment made under protest for taxable year 2004, claiming that it was exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the U.S. Constitution. The Tax Appeal Court determined and ruled that Taxpayers' gross income from their sport fishing charter businesses was subject to the general excise tax. The Intermediate Court of Appeals issued a published opinion on May 28, 2010, ruling in favor of the Department and affirming the Tax Appeal Court's decision. The Court determined that Taxpayers were subject to the general excise tax on gross income from their sport fishing charter businesses, and that the Supremacy and Tonnage Clauses of the U.S. Constitution did not apply to this case.

Tax Appeal Court

In the Matter of the Tax Appeal of Bobby R. Narmore, T.A. No. 02-0066, Tax Appeal Court, State of Hawaii.

After the Hawaii Supreme Court (S. Ct. No. 27023) held that the Tax Appeal Court had jurisdiction over this case and remanded it back to the Tax Appeal Court, the Tax Appeal Court ruled in favor of the Department. Taxpayer had argued that the Department had failed to assess the general excise tax for 1989 within the three-year period after he presented his federal income tax return and return information to the Department. The Tax Appeal Court determined that the statute of limitations for making an assessment is inapplicable because the Department never issued an assessment and that the alleged assessment is Taxpayer's general excise tax return that he signed and dated.

In the Matter of the Appeal of ICH Group, LLC, T.A. No. 05-0070, Tax Appeal Court, State of Hawaii.

Taxpayer filed its Notice of Appeal challenging general excise, use, and income tax assessments for taxable years 2001 through 2003, claiming that: (a) the assessments erroneously treat all amounts deposited into Taxpayer's bank accounts as gross income although substantial amounts were simply transfers from one bank account held by Taxpayer to another and thus not includible in gross income; (b) additional amounts were advances from related entities or repayments of advances to related entities, and were similarly not part of gross income; (c) the assessments wrongly deny tax benefits to which Taxpayer is entitled as an Enterprise Zone business; and (d) the assessments include use tax for which Taxpayer is not actually liable. The Director moved for summary judgment, which was granted.

In the Matter of the Tax Appeal of June H. Kawasaki, T.A. No. 07-0112, Tax Appeal Court, State of Hawaii.

Taxpayer appealed an income tax assessment for the taxable year ending December 31, 2003. At issue was whether Taxpayer timely claimed the residential construction and remodeling tax credit. The Court granted the Director's motion for Summary Judgment and Judgment.

In the Matter of the Tax Appeal of Hardy Spoehr and Joyce Spoehr, T.A. No. 08-0114, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of income tax, which disallowed insufficiently substantiated deductions. The Court granted the Director's motion to dismiss.

In the Matter of the Tax Appeal of Yibo Hsu and Helen Yao, T.A. No. 08-0123, Tax Appeal Court, State of Hawaii.

Taxpayers appealed an assessment of income tax for tax year 2002 that disallowed the residential construction and remodeling tax credit because the documents Taxpayers provided indicated that the expenses were paid in 2001. The Court granted the Director's motion to dismiss, or in the alternative, for summary judgment.

In the Matter of the Tax Appeal of Antonio and Carol Tagal, T.A. No. 09-0063, Tax Appeal Court, State of Hawaii.

Taxpayers appealed an assessment of income taxes. The Department moved to dismiss this appeal for lack of subject matter jurisdiction because the notice of appeal was untimely and was not properly served on the Director of Taxation. The Court granted the Director's motion to dismiss.

In the Matter of the Tax Appeal of Conrado C. Valdriz, T.A. No. 09-0067, Tax Appeal Court, State of Hawaii.

Taxpayer, a non-filer, appealed from assessments of general excise and income taxes because he claimed that the Department did not take into account applicable deductions and credits. The Department served Taxpayer with discovery to ascertain what those deductions and credits were and how Taxpayer documented them. Taxpayer dismissed the appeal.

In the Matter of the Tax Appeal of Lowell Rego, T.A. No. 09-0096, Tax Appeal Court, State of Hawaii.

Taxpayer appealed income tax assessments for taxable years 2001 through 2004. The Director moved to dismiss the appeal for lack of subject matter jurisdiction on the basis that the appeal was not timely filed. The Court granted the Director's motion.

In the Matter of the Tax Appeal of Triple B HI, Inc., T.A. No. 10-0005, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise and income tax assessments because the assessments were inadvertently mailed. Taxpayer filed a notice of dismissal.

In the Matter of the Tax Appeal of Angela Correale, T.A. No. 10-0026, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments for taxable years 2003 through 2006. Taxpayer argued that the penalty and interest charges were excessively punitive and that she did not understand the general excise tax law. The Court granted the Director's motion to dismiss.

Pending Appeals

Intermediate Court of Appeals

In the Matter of the Tax Appeal of Daniel Aregger and Susan Rogers Aregger, S. Ct. No. 30078, Intermediate Court of Appeals, State of Hawaii.

Taxpayers appealed from the Board of Review regarding the denial of part of Taxpayers' remodeling expenses for failing to qualify under the terms of the 2003 residential construction and remodeling tax credit. The tax appeal was dismissed for failing to serve the Director pursuant to § 232-17, HRS (Supp. 2007), such that the Tax Appeal Court lacked subject matter jurisdiction. Taxpayers appealed the Tax Appeal Court's ruling.

Tax Appeal Court

In the Matter of the Tax Appeal of Bobby R. Narmore, T.A. No. 02-0065, Tax Appeal Court, State of Hawaii.

After the remand of his other case from the Hawaii Supreme Court (S. Ct. No. 27023) holding that the Tax Appeal Court had jurisdiction to review Taxpayer's case, Taxpayer filed a motion to reopen this case. The Tax Appeal Court granted Taxpayer's motion and exercised jurisdiction to review the case. Taxpayer argued that the Department failed to assess the general excise tax within the three-year period because he had filed a general excise tax return on April 1, 1993, and that the assessments were issued in September 1996. The Department filed a motion for summary judgment that the Tax Appeal Court denied. The only factual issues are whether Taxpayer filed a general excise tax return on April 1, 1993, and if the Department received this return. Trial is set for August 8, 2011.

In the Matter of the Tax Appeal of Nordstrom, Inc., T.A. No. 06-0079, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for the tax period February 1, 2001, through January 31, 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of Zale Delaware, Inc., T.A. No. 06-0080, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request for use taxes paid on products imported for resale to the general public for the tax period August 1, 2001, through July 31, 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of Territorial Mutual Holding Company and Subsidiaries, T.A. Nos. 06-0096 and 07-0079, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of franchise taxes resulting from the disallowance of a deduction for dividends it received from a wholly owned real estate investment trust (REIT). Taxpayer claimed that, because § 857(c), IRC (which is operative in Hawaii and denies the deduction for dividends paid by a REIT), refers to § 243, IRC (which is inoperative), it was entitled to take a deduction for dividends it received from a REIT. Trial is scheduled for December 20, 2010.

In the Matter of the Tax Appeal of Ohana Foundation for Technical Development, T.A. No. 07-0009, Tax Appeal Court, State of Hawaii.

Taxpayer filed a refund claim for the tax credit for research activities provided under § 235-110.91, HRS, which the Department denied. The Department lost a partial motion for summary judgment regarding whether a nonprofit may claim a refundable income tax credit. Trial is scheduled for November 21, 2011.

In the Matter of the Tax Appeal of Safeway, Inc., T.A. No. 07-0042, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for the tax period 2002 through 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of American Technologies, Inc., T.A. No. 08-0011, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of additional general excise taxes for taxable years 2002 through 2005. The Department disallowed the subcontractor deductions for amounts paid to other companies in conjunction with work Taxpayer performed for the federal government. Trial is scheduled for February 21, 2011.

In the Matter of the Tax Appeal of UXB International, Inc., T.A. Nos. 08-0020, 08-0021, 08-0022, 08-0023, 08-0024, 08-0025, 08-0026, 08-0027, and 08-0028, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed general excise taxes on amounts it received for services provided to a joint venture where Taxpayer was one of the partners. Taxpayer claimed that the amounts it received were partnership distributions and that the services were performed outside the State. Trial is scheduled for July 18, 2011.

In the Matter of the Tax Appeal of Agnes P. Etscheit, T.A. No. 08-0046, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of income tax on the sale of real property by a nonresident person. Taxpayer claims the denial of her refund was erroneous because she is a resident of Micronesia and is exempt from United States income taxes. The Department maintains that the taxpayer is subject to the State tax. In addition, the Department maintains that the tax appeal is improper due to the failure to serve the Director. Trial is scheduled for April 4, 2011. This case is on hold until a decision is reached by the Intermediate Court of Appeals in the tax appeal of Daniel Aregger and Susan Rogers Aregger (S. Ct. No. 30078), which is discussed above.

In re Tax Appeals of Waiohai Beach Club Vacation Owners Association, T.A. Nos. 08-0074 and 08-0082; In re Tax Appeal of Maui Ocean Club Vacation Owners Association, T.A. No. 08-0075; and In re Tax Appeal of Marriott's Kauai Beach Club Owners Association, T.A. No. 08-0077; Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise taxes for amounts they received for condominium maintenance fees that they collected on behalf of their members and paid to the respective associations of apartment owners (AOAO). Taxpayers argue that: (a) these fees are not business income for purposes of chapter 237, HRS; (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS; and (c) these fees are collected as an agent of the AOAO. Trial is scheduled for May 16, 2011.

In the Matter of the Tax Appeal of Pacific Communications, LLC, T.A. No. 08-0085, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from final assessment of \$262,514 in general excise, use, and withholding taxes. The general excise tax assessment was based on Taxpayer's income tax returns and on 1099-MISC forms issued to Taxpayer. A settlement agreement has been reached and pending signatures of the closing agreement. Taxpayer agreed to pay \$227,363.48. Trial is scheduled for December 27, 2010.

In the Matter of the Tax Appeal of Kaanapali Beach Owners Association, T.A. No. 08-0089, Tax Appeal Court, State of Hawaii.

Taxpayer, an interval owners association, appealed from a final assessment of general excise taxes. Included in its annual assessment to its members are amounts owed by the owners to the AOA. Taxpayer is asserting that the amounts are exempt under the reimbursement exemption and because it acted as a true agent for the AOA. Trial is scheduled for May 23, 2011.

In the Matter of the Tax Appeal of Exclusive Resorts, T.A. No. 08-0101, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional transient accommodations tax under § 237D-2(c), HRS. Taxpayer asserts, among other things, that it is not a timeshare and is not subject to tax under chapter 237D, HRS. Trial is scheduled for April 18, 2011.

In the Matter of the Tax Appeals of TEAM TV, T.A. Nos. 08-0107 and 09-0046, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the high technology business investment tax credit provided under § 235-110.9, HRS. The Department argues that Taxpayer has, among other things, not made an "investment" as required by § 235-110.9, HRS, to claim this credit. Trial is scheduled for January 9, 2012.

In the Matter of Kahana Falls Interval Owners Association, T.A. No. 09-0014, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments on the bases that maintenance fees are not taxable to a taxpayer acting as an agent and conduit, and that Taxpayer relied on the advice of others who did not inform Taxpayer that there were taxes due. Trial is scheduled for May 23, 2011.

In the Matter of the Tax Appeal of The Centech Group, Inc., T.A. No. 09-0017, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of general excise tax and the county surcharge. In the Notice of Appeal, Taxpayer claims: (a) its income is exempt under § 237-26, HRS; (b) its income is for out-of-state activities; (c) its income is exempt under the federal immunity doctrine; (d) the assessments are unconstitutional; (e) the assessments are excessive; (f) its income is exempt under § 237-25, HRS; and (g) Taxpayer should not be subject to penalties and interest. Trial is scheduled for March 28, 2011.

In re Tax Appeals of Kahana Villa Vacation Club, T.A. Nos. 09-0019 and 09-0020; In re Tax Appeals of Kona Islander Vacation Club, T.A. Nos. 09-0021 and 09-0022; In re Tax Appeals of Maui Beach Vacation Club, T.A. Nos. 09-0023 and 09-0024; In re Tax Appeals of Sands of Kahana Vacation Club, T.A. Nos. 09-0025 and 09-0026; In re Tax Appeals of Kahana Beach Vacation Club, T.A. Nos. 09-0027 and 09-0028; In re Tax Appeals of Gardens at West Maui Vacation Club, T.A. Nos. 09-0029 and 09-0030; In re Tax Appeals of Maui Banyan Vacation Club, T.A. Nos. 09-0031 and 09-0032; In re Tax Appeals of Hono Koa Vacation Club, T.A. Nos. 09-0202 and 09-0223; Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise and transient accommodations taxes for income received from their operations of timeshare properties in the State. Specifically, Taxpayers were assessed additional general excise taxes for amounts it received as maintenance fees that it collected on behalf of its members. Taxpayers argue that: (a) these fees are not business income for purposes of chapter 237, HRS; (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS; and (c) that the Taxpayers are agents of the respective timeshare members and that the fees collected from them are used to pay the expenses of the respective members.

In re Tax Appeals of Paradise Cruise, Ltd., T.A. Nos. 09-0033, 09-0037, and 09-0054; In re Tax Appeals of Seabird Charters, Inc., T.A. Nos. 09-0047 and 09-0053; and In re Tax Appeals of Royal Princess Cruises, Inc., T.A. Nos. 09-0048, 09-0052, and 09-0058; Tax Appeal Court, State of Hawaii.

Taxpayers filed Notices of Appeal to the Tax Appeal Court challenging the Department's denial of their refund claims. Taxpayers are claiming that a portion of their income is exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the U.S. Constitution. Trial is scheduled for April 11, 2011.

In the Matter of the Tax Appeal of John M. Dimitrion, T.A. No. 09-0038, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed general excise taxes on income related to the business activity of Total Advantedge, LLC. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer denies the income should be attributable to him and that any income should be subject to the franchise tax, not the general excise tax. Trial is scheduled for November 7, 2011.

In the Matter of the Tax Appeal of Total Advantedge, LLC, T.A. No. 09-0039, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on its business activities. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer argues that any income should be subject to the franchise tax, not the general excise tax, and that Taxpayer was not allowed to take certain deductions allowed under chapter 241, HRS. Trial is scheduled for November 7, 2011.

In the Matter of the Tax Appeal of Four Seasons, Ltd., T.A. No. 09-0051, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for performing hotel management services in Hawaii. Taxpayer claims the amounts are not subject to tax because most of the services were performed outside the State. Trial is scheduled for September 12, 2011.

In re Tax Appeal of Radio Shack Corp., T.A. No. 09-0064, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for taxable years 1998 through 2004. Taxpayer argues that the denial is incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of One Napili Way Interval Owners Association, T.A. No. 09-0069, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for condominium maintenance fees that it collected on behalf of its members and paid to the One Napili Way AOA. Taxpayer asserts the fees it collected are not income for purposes of chapter 237, HRS, and alternatively, that the amounts are exempt reimbursements under § 237-20, HRS. Trial is scheduled for July 11, 2011.

In the Matter of the Tax Appeal of Maria Q. Galicia, Inc., T.A. No. 09-0070, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from general excise and income tax assessments. The Director has taken discovery and the court has approved a motion by Taxpayer's attorney to withdraw as counsel. Trial is scheduled for January 31, 2011.

In the Matter of the Tax Appeals of TMI Management, Inc., T.A. Nos. 09-0071 and 09-0072, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on amounts received for performing work for the federal government. Taxpayer argues, among other things, that the disputed income is exempt because Taxpayer is an employee leasing company and the disputed income was for salaries and expenses of leased employees. Trial is scheduled for August 15, 2011.

In the Matter of the Tax Appeal of Willem Vanderlee, T.A. No. 09-0073; and In the Matter of Van Der Lee Concrete Products, Inc., T.A. No. 09-0074, Tax Appeal Court, State of Hawaii.

Taxpayers, nonfilers, appealed from assessments of general excise taxes, claiming that they are wholesalers, not retailers or contractors, who are entitled to the 0.5% rate, rather than the 4% rate. Trial has been taken off the ready calendar pending resolution of Taxpayers' liabilities.

In re Tax Appeal of CCHH Maui LLC, T.A. No. 09-0084, Tax Appeal Court, State of Hawaii.

Taxpayer is appealing general excise tax assessments that disallowed the sublease deduction claimed by Taxpayer pursuant to § 237-16.5, HRS, and the imposition and adjustment of use and general excise taxes. Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeals of South Pacific Builders, Ltd., T.A. Nos. 09-0087, and 09-0088; and In the Matter of the Tax Appeal of Bernard and Ellen Fuller, T.A. No. 09-0089, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise and income taxes on amounts received for performing work within the State. Taxpayers argue, among other things, that the disputed income is exempt because Taxpayers paid certain amounts to other contractors. Trial is scheduled for August 22, 2011.

In the Matter of the Tax Appeal of CBIP, Inc., T.A. No. 09-0203, Tax Appeal Court, State of Hawaii.

Taxpayer is appealing general excise tax assessments. Taxpayer argues that: (a) the assessments erroneously include general excise tax on amounts that are not gross income but, rather, are rebates of expenses; (b) penalties are erroneous because nonfiling and/or underpayment was not due to negligence or the intentional disregard of rules; and (c) the assessments violate the due process, commerce, and/or equal protection clauses of the U.S. Constitution. Trial is scheduled for May 9, 2011.

In the Matter of the Tax Appeal of Maria Q. Galicia, T.A. No. 09-0205, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from general excise and income tax assessments for taxable years 2005 through 2008. The Director has taken discovery and the Court has granted a motion by Taxpayer's counsel to withdraw as counsel. Trial is set for May 16, 2011.

In the Matter of the Tax Appeals of Global Horizons, Inc., T.A. Nos. 10-0032 and 10-0033, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and income taxes for taxable years 2003 through 2007. Trial is set for April 25, 2011.

In the Matter of the Tax Appeal of Darryl M. and Linda M. Kan, T.A. No. 10-0038, Tax Appeal Court, State of Hawaii.

Taxpayers dispute the penalties and allege generally that the assessments are erroneous. Trial is not set.

In re Tax Appeal of Peter K. and Sharwayne Kim, T.A. No. 10-0039, Tax Appeal Court, State of Hawaii.

Taxpayers are appealing an income tax assessment, arguing that the calculations are incorrect, specifically the applicability of the 3% limitation and the one-half self employment tax adjustment. Taxpayer is also challenging the applicability of the negligence penalty that was assessed. Trial is set for June 20, 2011.

In re Tax Appeal of Maui Schooner Resort Owners Association, T.A. No. 10-0158, Tax Appeal Court, State of Hawaii.

Taxpayer is challenging the Department's assessment for additional general excise taxes on amounts Taxpayer received for condominium maintenance fees that it collected on behalf of its members and paid to the AOA. Taxpayer argues that: (a) these fees are not

business income for purposes of chapter 237, HRS; and (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS. Taxpayer is also challenging the calculation of the general excise tax on consignment sales, the use tax on imports for resale, and transient accommodations tax. Trial is not set.

In the Matter of the Tax Appeal of Gregory R. Patch and Claire L. Patch, T.A. No. 10-0159, Tax Appeal Court, State of Hawaii.

Taxpayers are appealing an income tax assessment for taxable year 2006. Taxpayers claim that they are appealing to suspend collection actions until they can determine their tax liability themselves. Trial is not set. The Director has filed a motion to dismiss to be heard on August 30, 2010.

In the Matter of the Tax Appeal of Patrick T. Brent, T.A. No. 10-0717, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise and transient accommodations tax assessments for taxable years 2003 through 2008. Taxpayer's main argument is that he does not owe the taxes because he employed a property management company that paid the taxes. Trial is set for September 3, 2012.

In the Matter of the Tax Appeal of Robert's Hawaii Cruises, Inc., T.A. No. 10-1235, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments for taxable years 2006 and 2007. Taxpayer argues, in part, that: (a) it qualifies for the general excise tax exemption as a tour packager under § 237-18(f), HRS; (b) the assessments conflict with and are preempted by the Maritime Transportation Security Act of 2002; (c) the U.S. Constitution prohibits Hawaii from laying a "duty of tonnage" without the consent of Congress; (d) the assessments improperly apportion and source Taxpayer's income; (e) the assessments violate the U.S. and State Constitutions and are otherwise illegal; and (f) Taxpayer timely filed a refund claim. Trial is not set.

In the Matter of the Tax Appeal of WEBE Corporation, Ltd., T.A. No. 10-1236, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax (and county surcharge, when applicable) assessments for taxable years 2006 through 2008. Taxpayer argues, in part, that: (a) it qualifies for the general excise tax exemption as a tour packager under § 237-18(f), HRS; (b) the assessments conflict with and are preempted by the Maritime Transportation Security Act of 2002; (c) the U.S. Constitution prohibits Hawaii from laying a "duty of tonnage" without the consent of Congress; (d) the assessments improperly apportion and source Taxpayer's income; (e) the assessments violate the U.S. States and State Constitutions and are otherwise illegal; and (f) Taxpayer timely filed a refund claim. Trial is not set.

In the Matter of the Tax Appeal of Augustine Salbosa, T.A. No. 10-1245, Tax Appeal Court, State of Hawaii.

Taxpayer, a nonfiler, appealed general excise and income tax assessments. He claims that the Department did not take into account applicable deductions and credits. Trial is set for July 11, 2011.

CRIMINAL CASES

During FY 2010, the Criminal Justice Section of the Department of the Attorney General filed complaints or indictments pursuant to §§ 231-34, 231-35, and 231-36, HRS, against 32 taxpayers³ for violating Hawaii tax laws, a decline of 24% from the 42 filed in FY 2009. These Oahu, Maui, and Hawaii taxpayers accounted for almost \$18 million in unreported income, \$880,809 in unpaid taxes (excluding civil assessments, penalties, and interest), and to date, \$42,500 in court-imposed criminal fines.⁴ The Department of Taxation collector assigned to criminal cases collected \$1.8 million in unpaid taxes, penalties, and interest during the fiscal year.

Criminal cases covered a wide range of taxpayers and business activities this fiscal year, including attorneys, realtors, couriers, care home operators, architects, landscapers, unlicensed contractors, return preparers, rental and time share operators, and publishers and advertisers. The largest case involved a multi-media company that failed to report over \$3.9 million during a five-year period. Five other cases involved taxpayers with more than \$1 million in gross income for the years prosecuted.

Currently pending are a number of criminal complaints and indictments stemming from cases referred to the Department of the Attorney General by the Department of Taxation's Criminal Investigation Unit in FY 2010. These pending criminal filings are the result of 24 Criminal Investigation Unit investigations involving 35 taxpayers.

Cases of Note

The largest case, as mentioned above, involved a multi-media company. This company and its owner were charged for failing to file annual general excise tax returns for five consecutive years and report gross income in excess of \$3.9 million. A guilty plea was entered, and sentencing scheduled for August 2010. This same taxpayer pled guilty in December 1998 for failing to file annual general excise tax returns and report over \$7.3 million in gross income for an identical company. In that earlier case, the taxpayer was fined \$50,000, but both the fine and the more than \$393,000 in general excise tax due was not paid because the company went bankrupt.

³ Of these 32 cases, 16 taxpayers pled guilty or no contest, a jury found one taxpayer guilty, and 15 taxpayers are awaiting arraignment and/or trial.

⁴ Criminal fines are imposed at sentencing; of the 16 taxpayers who have pled guilty or no contest, all have been sentenced, one to an 11-month period of incarceration.

A Honolulu realtor was charged for failing to file his general excise and individual income tax returns for six consecutive years. The realtor claimed that the court did not have jurisdiction, and that the Kingdom of Hawaii and his Hawaiian sovereignty did not require him to pay the taxes. At trial, the jury found him guilty after deliberating for less than 90 minutes, and the court ordered the realtor to pay the tax and to serve 11 months in prison.

A prominent trial attorney was charged for failing to file his annual general excise and individual income tax returns for four consecutive years. The attorney started his law practice as a sole proprietor and later formed a law corporation. He entered a no-contest plea and was ordered to pay restitution totaling \$24,781 and a \$6,500 fine.

An individual taxpayer noticed that tax returns prepared and e-filed by a paid preparer reflected claims for education credits although the taxpayer had not incurred any education expenses. The taxpayer properly prepared and filed corrected returns, and after receiving a bill for the tax owed as a result of the discrepancy, came to the Department of Taxation to complain. Following a review, the case against the preparer was referred to the Criminal Investigation Unit, which reviewed information provided by the IRS on returns filed by the preparer for approximately 600 clients in 2006 and 700 clients in 2007. Following an investigation that revealed false entries and overstated deductions on client returns, the tax preparer was charged with multiple charges of preparing false tax returns. The preparer entered a not guilty plea, and trial scheduled for the week of November 15, 2010.

Given the current economic climate, it is even more important that taxpayers be aware of the criminal consequences of noncompliance. The Criminal Justice Section of the Department of the Attorney General works closely with the Department of Taxation's Criminal Investigations Unit, which is a small, but important component of the Department's compliance efforts. Their combined efforts to successfully prosecute tax offenders, including tax preparers, serve to deter other potential offenders.

LEGISLATION

The Twenty-Fifth Legislature passed the following major tax related measures during the 2010 Regular Session that were subsequently enacted:

REGULAR SESSION 2010

Act Brief Description

- 021** **Relating to Tax Credits.** Provides that refundable credits shall be used first to offset tax liabilities, after which nonrefundable credits that may be carried forward until exhausted may be used. *Effective April 14, 2010; applies to taxable years beginning on or after January 1, 2010.*
- 022** **Relating to Tax Administration.** Moves up the filing and payment deadlines from the last day to the twentieth day of the month following the tax period for the following: (1) transient accommodations tax periodic returns; (2) use tax returns; (3) fuel tax monthly returns; (4) liquor tax monthly returns; (5) cigarette and tobacco tax monthly returns and other monthly payments and reports; and (6) rental motor vehicle and tour vehicle surcharge tax periodic returns. Act 22 also amends the insurance premiums tax law to require monthly instead of quarterly periodic returns, and moves up the filing deadline for those returns from the last day to the twentieth day of the month following the month in which the taxes accrue. *Effective July 1, 2010.*
- 023** **Relating to Taxation.** Reverses the amendment made by Act 165, SLH 2009, and restores the income tax deduction for wagering losses, up to the amount of wagering gains, to retroactively conform Hawaii law regarding wagering losses to the IRC. *Effective April 15, 2010; applies to taxable years beginning after December 31, 2008.*
- 059** **Relating to Taxation.** Part I repeals the income tax deduction for contributions to a political party and contributions to candidates for office who abide by the Hawaii campaign spending limits. Part II increases the tax on each cigarette or little cigar sold on or after July 1, 2010, by one cent to 15 cents, and by an addition one cent to 16 cents for each cigarette or little cigar sold on or after July 1, 2011. Part III and Part IV add and increase insurance-related fees imposed by the Department of Commerce and Consumer Affairs. *Effective July 1, 2010; provided that: (1) Part I is effective January 1, 2011, and applies to taxable years beginning after December 31, 2010; provided that the amendments made to §235-7, HRS, under section 1 of this Act will not be repealed when that section is reenacted on January 1, 2013, pursuant to Act 166, SLH 2007; (2) Part III is effective upon the repeal and reenactment of §431:7-101, HRS, pursuant to Act 177, SLH 2008, as amended by Act 11, SLH 2009; and (3) Part IV will be repealed on July 1, 2014, and §§431:7-101(a), (b), and (e), HRS, reenacted as they read on June 30, 2010.*

- 073 Relating to Government.** Contains various provisions to further Hawaii's energy and food self sufficiency. With respect to taxation, this Act temporarily amends §243-3.5, HRS, to increase the environmental response tax from \$0.5 per barrel of petroleum product sold to \$1.05 per barrel and change the name of the tax to the "environmental response, energy, and food security tax." It also deletes the provision in §128D-2, HRS, that requires the Department of Health to notify the Department of Taxation when the fund balance exceeds \$20 million, at which time the fuel distributors would cease collecting the tax until the balance declined to less than \$3 million. *Effective July 1, 2010; provided that sections 2, 3, 4, and 7 of this Act are repealed on June 30, 2005, and §§128D-2, 201-12.8, and 243-3.5, HRS, reenacted in the form in which they read on June 30, 2010.*
- 074 Relating to Taxation.** Amends chapter 236D, HRS, to subject the estates of decedents to the Hawaii estate and transfer tax on taxable income determined under the Internal Revenue Code as of December 31, 2009, in the amount of the credit for state death taxes allowed pursuant to the IRC as of December 31, 2000. It also amends the law to subject nonresidents who also are not citizens of the United States to the tax on assets with situs in Hawaii, except that the exclusion is only \$60,000. *Effective April 29, 2010; applies to decedents dying after April 30, 2010.*
- 084 Relating to the Secure and Fair Enforcement of Mortgage Licensing Act.** Makes amendments to the application, licensing, and regulatory requirements of the Secure and Fair Mortgage Licensing Act. Establishes the mortgage recovery fund to protect consumers injured by violations of chapter 454F, HRS. Includes mortgage loan originator companies in the regulatory system established by chapter 454F, HRS. Authorizes the commissioner of financial institutions to hire temporary and permanent staff to effectuate the purposes of chapter 454F, HRS. In part, it amends §237-24.8(b), HRS, and §241-1, HRS, to make nonsubstantive conforming changes. *Effective July 1, 2010; provided that sections 6, 7, 25, and 29 are effective January 1, 2011; and provided further that sections 30 and 31 are effective May 7, 2010.*
- 089 Relating to the Transfer of Homeless Programs Within the Department of Human Services.** Transfers homeless programs and services within the Department of Human Services by relocating the state homeless programs from the Hawaii Public Housing Authority to the benefit, employment, and support services division. In part, it amends §237-23(a)(4), HRS, to change the chapter reference from 356D to 346. *Effective July 1, 2010.*
- 090 Relating to Taxation.** Amends the definition of "little cigar" and "tobacco products," and adds a new definition for "large cigars." Clarifies that the 50% tax on the wholesale price of cigars applies specifically to large cigars. *Effective July 1, 2010.*

- 091 Relating to General Excise Tax.** Extends the general excise tax exemption for amounts received by hotel operators from hotel owners for employee expenses to amounts received by hotel operators from timeshare associations and by hotel suboperators from hotel owners, hotel operators, and timeshare associations. The definition of "hotel" was amended to include timeshare plans. However, the exemption is capped at \$400,000 in tax per calendar year. *Effective July 1, 2010.*
- 109 Relating to Appellate Jurisdiction.** Permanently establishes the jurisdictional responsibilities of the appellate courts, including amendments made to chapters 232 and 235, HRS. *Effective June 29, 2010.*
- 112 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective May 17, 2010; provided that section 6 (amending the title and subsection (a) of §235-2.4, HRS) is effective January 1, 2011.*
- 121 Relating to Construction Sites.** Requires the Director of the Department of Commerce and Consumer Affairs to convene a construction site inspection task force that would, in part, examine ways to deter tax evasion at construction sites. The task force will include at least two representatives from the Department of Taxation. *Effective July 1, 2010.*
- 155 Relating to General Excise Tax.** Denies general excise tax preferences to taxpayers who fail to file their general excise tax annual return and reconciliation later than the twelfth month following the prescribed due date of the return. Also creates a trust responsibility for the general excise tax due on each business transaction regardless of whether an amount represented as the general excise taxes is visibly passed on to customers or not. Holds an officer, member, manager, or other responsible person personally liable for the general excise tax due, including any penalty and/or interest. *Effective July 1, 2010; applies to gross income or gross proceeds received on or after July 1, 2010.*
- 171 Relating to Taxation.** Requires that refunds be paid within 90 days of the due date of the return or the date the return is filed, whichever is later, and changes the method for adding interest on these amounts. Also requires that any increase in general excise and use tax collections attributable to an increase in tax rate be used first to pay any unpaid tax refunds delayed from FY 2010 to FY 2011. *Effective July 1, 2010, and applies to taxable years beginning after December 31, 2009.*
- 182 Relating to the Permitted Transfers in Trust Act.** Adds a new Permitted Transfers in Trust chapter to the HRS, which allows the transfer of assets into a trust to protect those assets from creditors. Imposes a one-time excise tax of 1.0% on the fair market value of all permitted transfers. *Effective July 1, 2010; provided that section 2 shall apply to permitted transfers made after July 1, 2010.*

- 192 **Relating to Non-General Funds.** In part, this Act specifies that the refundable income tax credit for commercial fishers is to be paid from the State Highway Fund and amends §245-15, HRS, regarding the deposit of cigarette taxes into various special funds. *Effective July 1, 2010.*

COLLECTION AND DISTRIBUTION OF TAXES

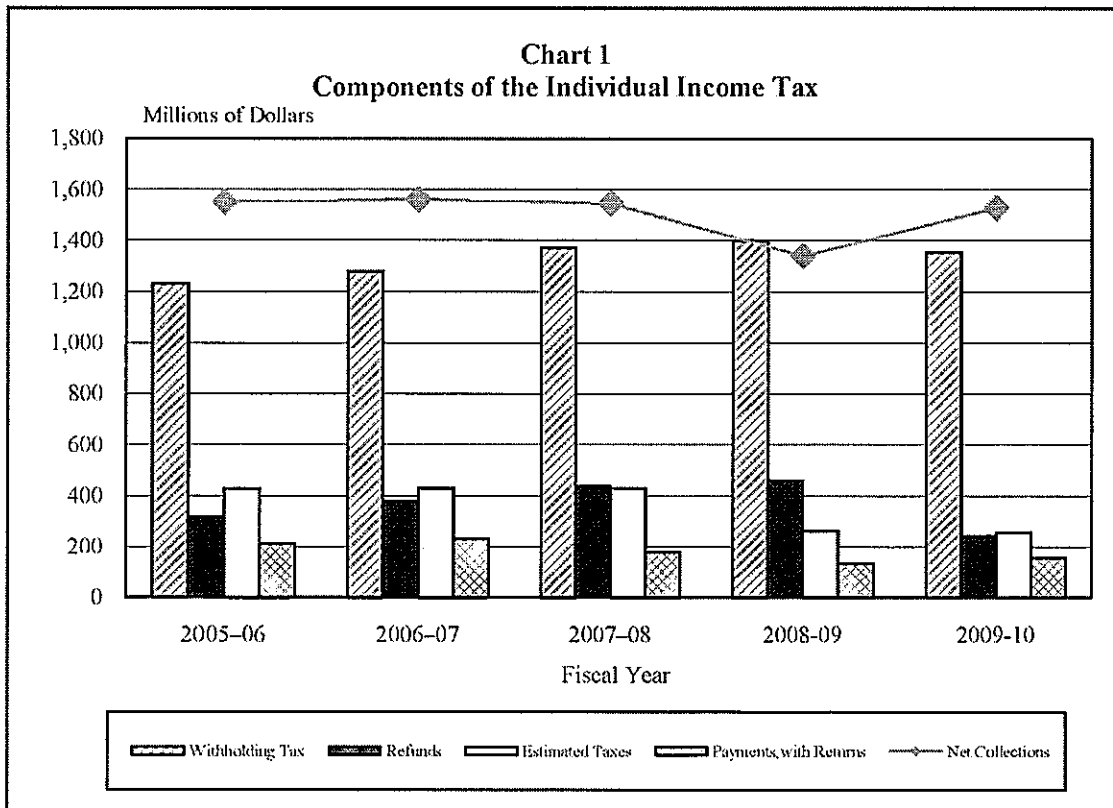
INDIVIDUAL INCOME TAX

Net individual income taxes paid in FY 2010 increased by 14.1% over FY 2009. Were it not for the delayed release of \$186.1 million of tax refunds until after FY 2010 had closed, the net tax paid in FY 2010 would have been only \$3.9 million more than FY 2009.

TABLE 1—TAXES PAID BY INDIVIDUALS
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Declaration of Estimated Taxes	\$ 257,329	\$ 262,540	\$ (5,211)	(2.0)
Payment with Return	157,827	135,354	22,473	16.6
Withholding Tax on Wages	1,355,036	1,398,639	(43,602)	(3.1)
Subtotal	\$ 1,770,192	\$ 1,796,533	\$ (26,340)	(1.5)
Refunds	242,083	457,477	(215,394)	(47.1)
NET	\$ 1,528,110	\$ 1,339,056	\$ 189,054	14.1

NOTE: Due to rounding, details may not add to totals.



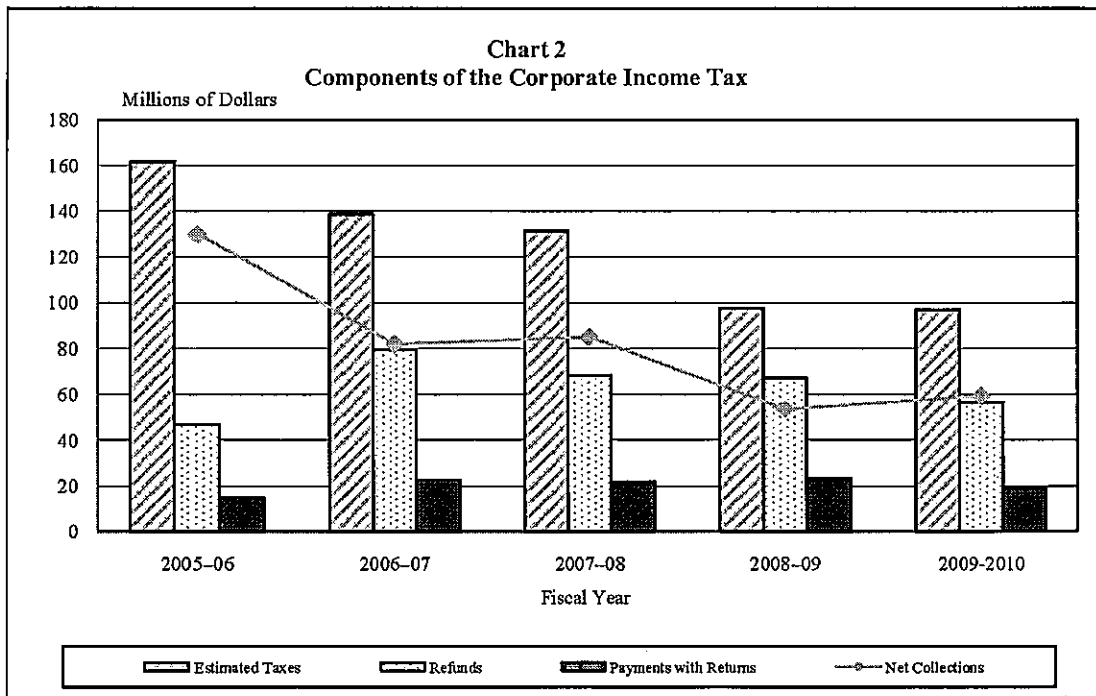
CORPORATE INCOME TAX

Net corporate income tax collections totaled \$59.2 million in FY 2010, an increase of 10.6% over the previous year's total of \$53.5 million. Were it not for the delayed release of some tax refunds until after FY 2010 had closed, the net tax paid would have been \$57.9 million, an increase of only \$4.4 million over FY 2009.

TABLE 2—TAXES PAID BY CORPORATIONS
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Declaration of Estimated Taxes	\$ 96,855	\$ 97,456	\$ (602)	(0.6)
Payment with Return	18,911	23,307	(4,397)	(18.9)
Subtotal	\$ 115,765	\$ 120,763	\$ (4,998)	(4.1)
Refunds	56,580	67,241	(10,661)	(15.9)
NET	\$ 59,186	\$ 53,522	\$ 5,663	10.6

NOTE: Due to rounding, details may not add to totals.



GENERAL EXCISE AND USE TAXES

General excise and use taxes, which made up 45.1% of total tax collections in FY 2010, decreased by 4.2% from FY 2009 to a total of \$2.3 billion in FY 2010. All components, except

services, were lower in FY 2010 than in FY 2009. Contracting revenues were lower by \$70.7 million or 23.2% from FY 2009. Tax revenues from services were down by \$16.0 million or 1.6% from last year. Rental revenue from all rentals other than from the furnishing of transient accommodations was down by \$12.6 million or 5.2%. Another general excise tax component with a large decrease was transient accommodation rentals, which decreased by \$8.2 million or 7.3% from FY 2009.

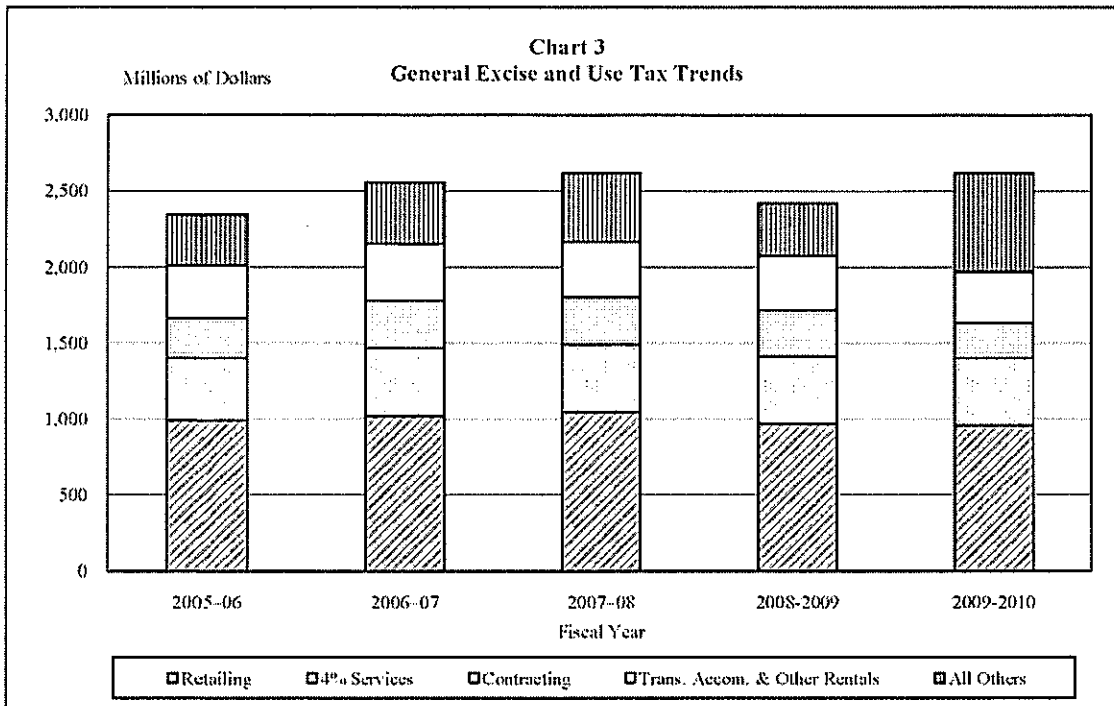


TABLE 3—GENERAL EXCISE AND USE TAX BASE AND TAXES
FOR FISCAL YEARS ENDING JUNE 30, 2010, AND JUNE 30, 2009
(In thousands of dollars)

SOURCE OF REVENUE	Rate	FY 2010	FY 2009	Difference	
				Amount	% Change
TAX BASE					
Retailing		\$ 23,919,023	\$ 24,318,203	\$ (399,180)	(1.6)
Services		11,153,522	11,058,912	94,640	0.9
Contracting		5,864,048	7,631,024	(1,766,976)	(23.2)
Trans. Accom. Rentals		2,606,510	2,812,103	(205,593)	(7.3)
All Other Rentals		5,778,068	6,094,050	(315,982)	(5.2)
All Others (4%)		4,360,092	4,374,367	(14,275)	(0.3)
Subtotal		\$ 53,681,293	\$ 56,288,658	\$ (2,607,365)	(4.6)
Wholesaling		\$ 12,207,146	\$ 12,501,827	\$ (294,681)	(2.4)
Manufacturing		703,483	809,111	(105,629)	(13.1)
Producing		339,417	404,545	(65,128)	(16.1)
Wholesale Services		572,402	610,899	(38,497)	(6.3)
Use (1/2%)		6,430,375	6,883,063	(452,687)	(6.6)
Insurance Commissions		502,071	535,417	(33,346)	(6.2)
Subtotal		\$ 20,754,894	\$ 21,744,863	\$ (989,969)	(4.6)
TOTAL—ALL ACTIVITIES		\$ 74,436,188	\$ 78,033,522	\$ (3,597,334)	(4.6)
TAX					
Retailing	4.00%	\$ 956,761	\$ 972,728	\$ (15,967)	(1.6)
Services	4.00%	446,142	442,356	3,786	0.9
Contracting	4.00%	234,562	305,241	(70,679)	(23.2)
Trans. Accom. Rentals	4.00%	104,260	112,484	(8,224)	(7.3)
All Other Rentals	4.00%	231,123	243,762	(12,639)	(5.2)
All Others	4.00%	174,404	174,975	(571)	(0.3)
Subtotal		\$ 2,147,252	\$ 2,251,546	\$ (104,295)	(4.6)
Wholesaling	0.50%	\$ 61,036	\$ 62,509	\$ (1,473)	(2.4)
Manufacturing	0.50%	3,517	4,046	(528)	(13.1)
Producing	0.50%	1,697	2,023	(326)	(16.1)
Wholesale Services	0.50%	2,862	3,054	(192)	(6.3)
Use	0.50%	32,152	34,415	(2,263)	(6.6)
Insurance Commissions	0.15%	753	803	(50)	(6.2)
Subtotal		\$ 102,017	\$ 106,850	\$ (4,833)	(4.5)
Unallocated*		\$ 67,165	\$ 59,183	\$ 7,982	13.5
TOTAL—ALL ACTIVITIES		\$ 2,316,434	\$ 2,417,580	\$ (101,146)	(4.2)

*Included are collections from penalty and interest, assessments and corrections, delinquent collections, refunds, protested payments, settlements, business activities of disabled persons, etc.

NOTE: Due to rounding, details may not add to totals.

TRANSIENT ACCOMMODATIONS TAX

Transient accommodations tax collections totaled \$214.2 million for FY 2010, an increase of \$14.6 million or 7.3% from last fiscal year. Transient accommodations tax funds were distributed as follows: (1) 44.8% to the counties; (2) 17.3% to the Convention Center Enterprise Special Fund, provided that the revenues in excess of \$33.0 million in any calendar year are deposited into the General Fund; (3) 34.2% to the Tourism Special Fund, provided that, of the first \$1.0 million, 90.0% is transferred to the State Parks Special Fund, and 10.0% into the Special Land and Development Fund, and further provided that 0.5% of the 34.2% is transferred to a sub-account in the Tourism Special Fund to fund a safety and security budget, and additional amounts are transferred into the Tourism Emergency Trust Fund, as needed, to maintain a fund balance of \$5.0 million; and (4) 3.7% to the General Fund. In FY 2010, an additional 1 percent TAT was levied and all proceeds from the increase were allocated to the General Fund. In FY 2010, \$31.7 million was deposited into the General Fund; an increase of \$18.1 million over FY 2009.

TABLE 4—TRANSIENT ACCOMMODATIONS TAX
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Transient Accommodations Tax	\$214,219	\$199,594	\$14,625	7.3
Time Share Occupancy Tax	10,023	11,020	(997)	(9.0)
Trans. Accom./Time Share Occ. Fees	9	8	1	12.5
TOTAL	\$224,251	\$210,622	\$13,629	6.5
Counties' Share	\$90,568	\$94,355	(3,787)	(4.0)
Convention Center Fund	32,838	30,663	2,175	7.1
Tourism Special Fund	69,139	72,030	(2,891)	(4.0)
General Fund	31,705	13,574	18,131	133.6
TOTAL	\$224,251	\$210,622	13,629	6.5

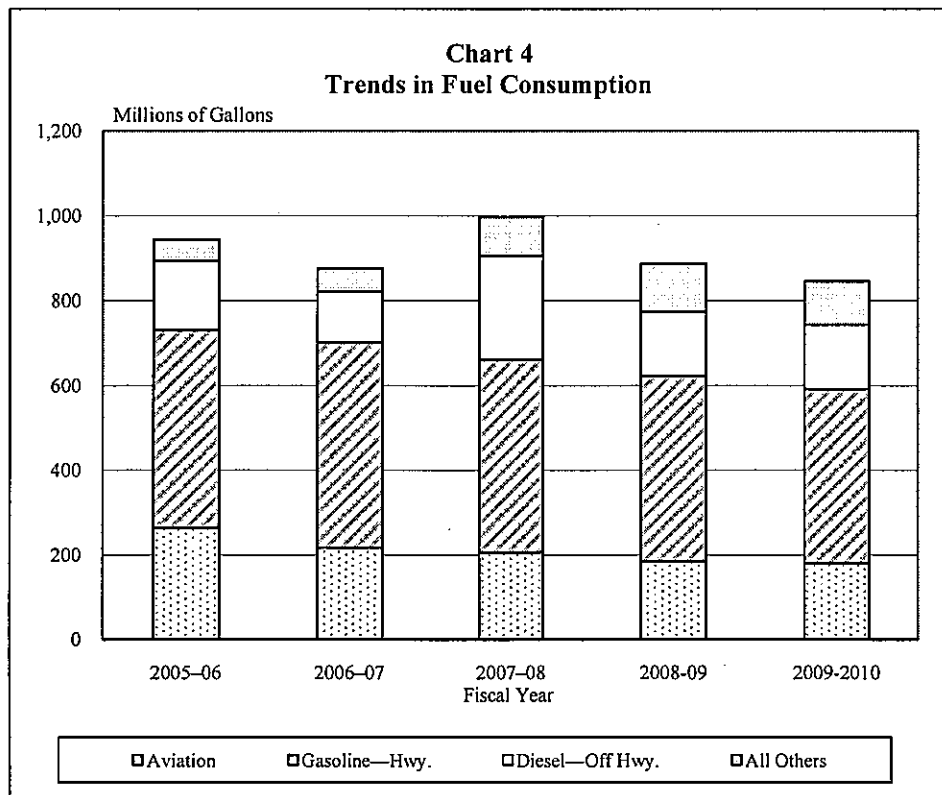
NOTE: Due to rounding, details may not add to totals.

FUEL AND MOTOR VEHICLE TAXES

Total taxable fuel consumption decreased by 4.7% to 844.6 million gallons in FY 2010. An environmental response tax of five cents was imposed on each barrel of petroleum product sold by a distributor to any retail dealer or end user. A total of 28.4 million barrels of petroleum was subjected to the environmental response tax in FY 2010, a decline of 10.6% from the previous year.

TABLE 5—GALLONS OF FUEL CONSUMED
(In thousands of gallons)

	FY 2010	FY 2009	Difference	
			Amount	%
Gasoline	411,419	436,475	(25,056)	(5.7)
Diesel Oil—Off Highway	152,118	152,359	(241)	(0.2)
Diesel Oil—Highway	47,606	64,923	(17,317)	(26.7)
Liq. Pet. Gas—Highway	65	84	(19)	(22.6)
Small Boats—Gasoline	1,390	413	977	236.6
Small Boats—Diesel Oil	1,001	5,288	(4,287)	(81.1)
Aviation Fuel	179,609	185,309	(5,700)	(3.1)
Other Fuel*	51,353	41,778	9,575	22.9
TOTAL GALLONS	844,560	886,629	(42,069)	(4.7)
Environmental Tax (Barrel)	28,427	31,792	(3,365)	(10.6)



The revenues from fuel taxes are distributed to several special funds. One percent of the fuel taxes paid on liquid fuel are deposited into the Boating Special Fund. Fuel taxes paid on sales of

aviation fuel are deposited into the Airport Revenue Fund. Environmental response tax collections are deposited into the Environmental Response Revolving Fund, which is administered by the Department of Health for oil spill prevention and remediation programs. The remaining State fuel tax revenues are deposited into the State Highway Fund, while the remaining county fuel tax revenues are deposited into the respective county's highway fund. The State Highway Fund also receives monies from the motor vehicle weight taxes and registration fees, which are administered and collected by the counties, and the rental motor vehicle and tour vehicle surcharge taxes.

TABLE 6—ALLOCATION OF FUEL TAXES
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
STATE HIGHWAY FUND:				
Fuel	\$81,271	\$86,401	\$(5,130)	(5.9)
Motor Vehicle Tax & Fees	102,319	101,991	328	0.3
TOTAL	\$183,590	\$188,393	\$(4,802)	(2.5)
COUNTY HIGHWAY FUND:				
City & County of Honolulu	\$47,639	\$50,316	\$(2,677)	(5.3)
County of Maui	9,679	10,499	(820)	(7.8)
County of Hawaii	6,997	7,661	(664)	(8.7)
County of Kauai	3,596	3,941	(345)	(8.8)
TOTAL	\$67,911	\$72,416	\$(4,505)	(6.2)
BOATING SPECIAL FUND:	\$1,507	\$1,604	\$(97)	(6.0)
STATE AIRPORT FUND:				
Aviation Fuel	\$3,592	\$3,706	\$(114)	(3.1)
ENVIRONMENTAL TAX FUND:	\$1,421	\$1,590	\$(169)	(10.6)

NOTE: Due to rounding, details may not add to totals.

The State Legislature sets the State fuel tax rates, while the county councils set the county rates. The effective rates for FY 2010 are shown below:

FUEL TAX RATES PER GALLON*

TYPE OF FUEL	State	County	Total
Gasoline & Diesel Oil (Highway Use)			
City & County of Honolulu	17.0¢	16.5¢	33.5¢
County of Maui	17.0¢	16.0¢	33.0¢
County of Hawaii	17.0¢	8.8¢	25.8¢
County of Kauai	17.0¢	13.0¢	30.0¢
Liquid Petroleum Gas (Highway Use)			
City & County of Honolulu	5.2¢	5.4¢	10.6¢
County of Maui	5.2¢	4.3¢	9.5¢
County of Hawaii	5.2¢	2.9¢	8.1¢
County of Kauai	5.2¢	4.3¢	9.5¢
Ethanol			
City & County of Honolulu	2.4¢	2.4¢	4.8¢
County of Maui	2.4¢	3.8¢	6.2¢
County of Hawaii	2.4¢	1.3¢	3.7¢
County of Kauai	2.4¢	1.9¢	4.3¢
Methanol			
City & County of Honolulu	1.9¢	1.8¢	3.7¢
County of Maui	1.9¢	2.9¢	4.8¢
County of Hawaii	1.9¢	1.0¢	2.9¢
County of Kauai	1.9¢	1.4¢	3.3¢
Biodiesel			
City & County of Honolulu	4.0¢	8.3¢	12.3¢
County of Maui	4.0¢	0.0¢	4.0¢
County of Hawaii	4.0¢	0.0¢	4.0¢
County of Kauai	4.0¢	0.0¢	4.0¢
Compressed Natural Gas			
City & County of Honolulu	0.8¢	1.3¢	2.1¢
County of Maui	0.8¢	1.2¢	2.0¢
County of Hawaii	0.8¢	0.7¢	1.5¢
County of Kauai	0.8¢	1.0¢	1.8¢
Liquefied Natural Gas			
City & County of Honolulu	2.4¢	4.7¢	7.1¢
County of Maui	2.4¢	4.5¢	6.9¢
County of Hawaii	2.4¢	2.5¢	4.9¢
County of Kauai	2.4¢	3.7¢	6.1¢
Environmental Response Tax (Per Barrel)			
All Counties	5.0¢	0.0¢	5.0¢

* Diesel oil (off highways), aviation fuel, and naphtha sold for use in a power generating facility are taxed by the State at the rate of 2¢ per gallon.

PUBLIC SERVICE COMPANY TAXES

Public utilities paid \$157.7 million in public service company tax, penalty, and interest in FY 2010, compared to \$126.1 million in FY 2009.

ESTATE AND TRANSFER TAXES

During FY 2010, estate tax collections totaled less than \$1,000, compared to \$274,164 in FY 2009.

The federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) gradually phases out the estate and transfer taxes and replaces the federal credit for state death taxes with a deduction. Hawaii's tax was effectively eliminated for decedents dying after December 31, 2004, when the federal credit was replaced with a deduction.

OTHER TAXES

Total revenues from other miscellaneous taxes amounted to \$591.1 million in FY 2010, \$61.9 million more than the previous fiscal year. Employment security contributions increased by \$32.9 million in FY 2010. Insurance premium tax collections were higher by \$11.0 million in FY 2010, while tobacco tax collections rose by \$15.3 million.

Contributing to the increase in tobacco tax collections was Act 316, SLH 2006, and Act 56, SLH 2009. Act 316 increased the excise tax per cigarette by one cent per year over a six year period that began on September 30, 2006. Act 56 increased the tax on cigarettes to thirteen cents each effective July 1, 2009. Act 316 also provided for the allocation of a portion of the tobacco tax collections to the following special funds: the Hawaii Cancer Research Special Fund, the Trauma System Special Fund, the Emergency Medical Services Special Fund, and the Community Health Centers Special Fund. Allocations to the Hawaii Cancer Research Special Fund began on October 1, 2006. Allocations to the Trauma System Special Fund and the Emergency Medical Services Special Fund began a year later, and allocations to the Community Health Centers Special Fund began on October 1, 2008.

The Bureau of Conveyances under the Department of Land and Natural Resources collected \$40.6 million in conveyance taxes in FY 2010, up from only \$23.8 million collected in FY 2009. Of the total, \$18.2 million was allocated to the General Fund, the remainder going to the Rental Housing Fund, Natural Area Reserve Fund, and Land Conservation Fund.

Liquor tax collections declined to \$44.1 million in FY 2010, down from \$47.2 million in the previous fiscal year. Franchise taxes collected from banks and other financial corporations fell to \$20.7 million from \$28.1 million in the previous fiscal year.

Act 247, SLH 2005, granted counties the authority to pass an ordinance imposing a county surcharge of no more than 0.5% on gross income subjected to the State's 4% general excise tax

to fund county public transportation systems. The Act specified that the county surcharge tax be levied no earlier than January 1, 2007, and that the ordinance be automatic repealed on December 31, 2022. The Department of Taxation is required to levy, assess, collect, and administer the county surcharge tax for the counties. The City and County of Honolulu was the only county to adopt an ordinance levying a 0.5% county surcharge tax. The Honolulu county surcharge tax took effect on January 1, 2007. In FY 2010, \$175.1 million in county surcharge tax was collected on behalf of the City and County of Honolulu, a slight drop from the \$178.7 million collected in FY 2009.

TABLE 7—MISCELLANEOUS TAXES*
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Banks & Other Financial Corporations	\$20,666	\$28,075	\$(7,409)	(26.4)
Conveyance	40,634	23,772	16,862	70.9
Employment Security Contributions	82,017	49,071	32,946	67.1
Insurance Premiums & Fees	104,721	93,720	11,001	11.7
Liquor & Permits	44,074	47,242	(3,168)	(6.7)
Tobacco & Licenses	123,489	108,164	15,325	14.2
General Excise Licenses & Fees	449	457	(8)	(1.8)
Honolulu County Surcharge	175,061	178,729	(3,668)	(2.1)
TOTAL	\$591,111	\$529,230	\$61,888	11.7

* Before allocation to special or other funds.

NOTE: Due to rounding, details may not add to totals.

TOTAL TAX COLLECTIONS

Total tax collections in FY 2010 amounted to \$5.1 billion, or about 3.9% more than the \$4.9 billion collected in the previous fiscal year. While the Department of Taxation collected the majority of the total taxes, the counties collected \$61.9 million in State motor vehicle weight taxes and registration fees, the Department of Commerce and Consumer Affairs collected \$104.7 million in insurance premium taxes, the Department of Land and Natural Resources collected \$40.6 million in conveyance taxes, and the Department of Labor and Industrial Relations collected \$82.0 million in employment security contributions.

TABLE 8—TAX COLLECTIONS
(In thousands of dollars)

SOURCE OF REVENUE	FY 2010		FY 2009	
	Amount Collected	% of Total	Amount Collected	% of Total
Banks – Financial Corporations	\$20,666	0.40	\$28,075	0.57
Conveyance	40,634	0.79	23,772	0.48
Employment Security Contributions	82,017	1.60	49,071	0.99
Fuel	155,703	3.03	165,717	3.35
General Excise & Use Tax	2,316,434	45.11	2,417,580	48.9
Honolulu County Surcharge	175,061	3.41	178,729	3.61
Income – Corporations	59,186	1.15	53,522	1.08
Income – Individuals	1,528,110	29.76	1,339,056	27.08
Inheritance and Estate	0	0.00	274	0.01
Insurance Premiums	104,721	2.04	93,720	1.9
Liquor & Permits	44,074	0.86	47,242	0.96
Motor Vehicle Tax*	102,319	1.99	101,991	2.06
Public Service Companies	157,661	3.07	126,069	2.55
Tobacco & Licenses	123,489	2.40	108,164	2.19
Transient Accommodations Fees	9	0.00	8	0
Transient Accommodations Tax	224,243	4.37	210,614	4.26
All Others**	775	0.02	528	0.01
TOTAL	\$5,134,810	100.00	\$4,944,133	100.00

* Includes motor vehicle weight tax, registration fees, commercial driver's license, periodic motor vehicle inspection fees, rental motor vehicle and tour vehicle registration fees, and rental motor vehicle and tour vehicle surcharge tax.

** Includes fuel retail dealer permits, fuel penalty and interest, general excise fees, and insurance fees.

NOTE: Due to rounding, details may not add to totals.

DISTRIBUTION OF TAXES

Of the total \$5.1 billion in tax revenues collected in FY 2010, \$4.4 billion or 85.0% was deposited into the State's General Fund. The four counties received \$158.5 million or 3.1% of the tax collections, which came from county fuel taxes and the transient accommodations tax. In addition, \$175.1 million was collected and credited to the City and County of Honolulu county surcharge tax.

The remaining \$436.7 million of tax revenue not deposited into the General Fund or transferred to the counties was distributed among several State special funds. The State Highway Fund

received the largest portion, \$183.6 million. All \$82.0 million of the employment security contributions went into the Unemployment Trust Fund for unemployment benefits. Portions of the transient accommodations tax went to the next two largest special funds: \$69.1 million to the Tourism Special Fund and \$32.8 million to the Convention Center Fund.

For FY 2010, 10% of the conveyance tax was allocated to the Land Conservation Fund, 25% was allocated to the Rental Housing Trust Fund and 25% was allocated to the Natural Area Reserve Fund. The balance of the conveyance tax collections (40%) were allocated to the General Fund.

Effective July 1, 2009, 2.0 cents of the 13 cents tax per cigarette was allocated to the Hawaii Cancer Research Special Fund (which received a total of \$18.0 million), 0.75 cents of the cigarette tax was allocated to the Trauma Systems Special Fund (which received a total of \$6.8 million). 0.75 cents of the cigarette tax was allocated to the Community Health Centers Special Fund (which received a total of \$6.8 million), and 0.50 cents of the cigarette tax was allocated to the Emergency Medical Services Special Fund (which received a total of \$4.5 million)

Distributions of State tax revenue into the General Fund are shown in Table 9. Distributions of all tax collections are shown in Table 10.

TABLE 9—STATE GENERAL FUND*
(In thousands of dollars)

SOURCE OF REVENUE	FY 2010		FY 2009	
	Amount Collected	% of Total	Amount Collected	% of Total
Banks – Financial Corporations	\$18,666	0.43	\$26,075	0.62
Conveyance	18,216	0.42	8,311	0.20
General Excise & Use Tax	2,316,434	53.07	2,417,580	57.53
Income – Corporations	59,186	1.36	53,522	1.27
Income – Individuals	1,527,619	35.00	1,338,451	31.85
Inheritance and Estate	0	0.00	274	0.01
Insurance Premiums	104,721	2.40	93,720	2.23
Liquor & Permits	44,074	1.01	47,242	1.12
Public Service Companies	157,661	3.61	126,069	3.00
Tobacco & Licenses	85,503	1.96	76,955	1.83
Transient Accommodations Tax	31,696	0.73	13,566	0.32
All Others**	783	0.02	535	0.01
TOTAL	\$4,364,559	100.00	\$4,202,301	100.00

* Net of transfers to special funds.

** Includes fuel retail dealer permits, fuel penalty and interest, general excise fees, transient accommodations fees and insurance fees.

NOTE: Due to rounding, details may not add to totals.

TABLE 10 - DISTRIBUTION OF COLLECTIONS
(In thousands of dollars)

	FY 2010		FY 2009	
	Amount Distributed	% of Total	Amount Distributed	% of Total
STATE FUNDS:				
State General Fund	\$4,364,559	84.99	\$4,202,301	85.00
State Highway Fund	183,590	3.58	188,393	3.81
State Airport Fund	3,592	0.07	3,706	0.07
Boating Special Fund	1,507	0.03	1,604	0.03
Environmental Fund	1,421	0.03	1,590	0.03
Cigarette Stamp Admin/Enf. Fund	1,988	0.04	1,782	0.04
Compliance Resolution Fund	2,000	0.04	2,000	0.04
Unemployment Trust Fund	82,017	1.60	49,071	0.99
Election Campaign Fund	217	0.00	205	0.00
Tourism Special Fund	69,139	1.35	72,030	1.46
Rental Housing Fund	10,190	0.20	7,136	0.14
Land Conservation Fund	4,076	0.08	2,379	0.05
Natural Area Reserve Fund	8,152	0.16	5,947	0.12
Convention Center Fund	32,838	0.64	30,663	0.62
Public Libraries Fund	68	0.00	96	0.00
Domestic Violence/Child Abuse	134	0.00	191	0.00
School Repair & Maintenance Fund	72	0.00	111	0.00
Cancer Research Fund	17,966	0.35	20,018	0.40
Trauma System Fund	6,754	0.13	4,674	0.09
Emergency Medical Service Fund	4,525	0.09	2,714	0.05
Community Health Centers Fund	6,754	0.13	2,021	0.04
Subtotal - State	\$4,801,559	93.50	\$4,598,633	93.01
HONOLULU COUNTY				
SURCHARGE	175,061	3.41	\$178,729	3.61
REVENUES TRANSFERRED TO COUNTIES:				
Fuel tax	67,911	1.32	72,416	1.46
Transient Accommodations Tax	90,568	1.76	94,355	1.91
Subtotal - Counties	\$158,480	3.09	\$166,771	3.37
TOTAL	\$5,135,100	100.00	\$4,944,133	100.00

NOTE: Due to rounding detail may not add to totals.

BRIEF SUMMARY OF HAWAII'S TAX SYSTEM

Hawaii has 17 separate tax laws, of which 14 are administered by the State. The counties administer the remaining three—the real property tax, motor vehicle weight tax, and public utility franchise tax—although the revenue from the motor vehicle weight taxes accrues to both the State and county highway funds. The number of taxes administered by the State is indicative of the highly centralized nature of the State's governmental structure.

The State's primary revenue source is the general excise tax. Unlike the more common sales tax in some other states and localities, the general excise tax is levied on the business receiving the income, rather than the customer, for the privilege of doing business in the State. Despite the relatively low tax rates, substantial revenue is generated in large part due to the broad tax base on which this tax and its complementary use tax is levied. Gross income from most business activities, including most sales, services, contracting, and rental activities, are subject to the general excise tax. In general, the general excise tax law levies the tax on all business activities at a 4% retail rate, while allowing a lower rate on some transactions, including many business-to-business transactions, and exempting some other transactions either because those transactions are subject to other taxes or because the legislature wished to grant a preference to that economic activity.

Although not a State tax realization, the Department of Taxation is required to administer the county surcharge on the State's general excise tax for the counties. Act 247, SLH 2005, authorized the counties to establish by ordinance a surcharge of up to 0.5% to fund public transportation systems; only the City and County of Honolulu adopted a surcharge. Beginning January 1, 2007, the county surcharge tax adopted pursuant to City and County of Honolulu Ordinance No. 05-027 has been levied at the rate of 0.5% on transactions that are subjected to the State general excise or use taxes at the 4% rate and that are attributable to business conducted in the City and County of Honolulu. Act 247, SLH 2005, and Ordinance No. 05-027 will both be automatically repealed on December 31, 2022.

Second in revenue generation is the State's income tax, the majority of which is from the income tax levied on individual taxpayers. A number of tax credits are available to mitigate the income tax burden. Two refundable non-business income tax credits, the food/excise tax credit and the credit for low-income household renters, specifically provide tax relief to lower-income taxpayers.

The refundable food/excise tax credit is allowed resident individuals, including those with no gross income, in amounts ranging from \$85 to \$25 per qualified exemption for resident individuals who have less than \$50,000 of federal adjusted gross income; those with the lowest incomes are eligible for the highest credit amounts. The credit for low-income household renters is \$50 per qualified exemption, including the extra exemption for taxpayers who are age 65 or older, for resident individuals with less than \$30,000 of Hawaii adjusted gross income.

A one-time, refundable, general income tax credit of \$1 for each qualified exemption, except additional exemptions for age and disability, was available to resident individuals for tax year

2009. This credit was enacted (Act 84, SLH 2009) to satisfy the requirements of Article VII, section 6, of the Constitution of Hawaii.

Revenues from 11 of the State-administered taxes go into the General Fund and are used to provide government services. Although the fuel tax is administered by the State, it is a source of revenue for both the State and county highway funds. Employment security tax collections are deposited into the Unemployment Trust Fund and used exclusively to provide benefits to unemployed workers. Rental motor vehicle and tour vehicle surcharge taxes are deposited into the State Highway Fund.

OUTLINE OF THE HAWAII TAX SYSTEM AS OF JULY 1, 2010

Issued by the Department of Taxation

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
<p>(1) Net Income</p> <p>Chapter 235 --- Section 235-1 to 235-130</p>	<p>For taxable years beginning after December 31, 2008, the tax rates for individuals range from 1.4% to 11% of taxable income. The standard deduction amounts are as follows: married filing joint return or surviving spouse with dependent child is \$4,000; single or married filing separately is \$2,000; and head of household is \$2,920.</p> <p>For taxable years beginning after December 31, 2010, Act 60, SLH 2009, increases the standard deduction amounts as follows: married filing joint return or surviving spouse with dependent child is \$4,400; single or married filing separately is \$2,200; and head of household is \$3,212.</p> <p>The tax rates for estates and trusts range from 1.4% to 8.25%. The tax rates for corporations are 4.4% up to \$25,000, 5.4% over \$25,000 but not over \$100,000, and 6.4% over \$100,000 of taxable income.</p>	<p>Returns due 20th day of 4th month following the close of taxable year. Withholding returns due monthly on or before the 15th day of the following calendar month. When the total tax liability is less than \$5,000 for the calendar year, returns may be filed quarterly on or before the 15th day of the month after the close of each quarter. An annual employer's return and reconciliation of Hawaii income tax withheld, Form HW-3, must be filed together with a duplicate copy of each employee's tax statement, Form HW-2, on or before the last day of February following the close of the calendar year. Estimates of income of individuals not subject to withholding, estates, trusts, and corporations, April 20th.</p>	<p>In general, at time of filing returns. Estimates of individuals, estates, trusts, and corporations, one-quarter, April 20th; June 20th; September 20th; and January 20th. See Booklet A, Employer's Tax Guide, for the withholding requirements for employers who are required to pay the taxes withheld by electronic funds transfer (EFT).</p>
<p>(2) Estate and Transfer (for decedents dying after 4/30/10)</p> <p>Chapter 236D --- Section 236D-1 to 236D-18</p>	<p>Act 74, SLH 2010, reenacts Hawaii's Estate and Transfer Tax for decedents dying after April 30, 2010. Act 74 adds a new definition of "Internal Revenue Code," which makes the IRC operative for purposes of the estate and transfer tax as of December 31, 2009. However, IRC section 2011 (federal estate tax credit for state death taxes paid) and IRC section 2604 (federal credit for state generation-skipping transfer taxes paid), which compose the Hawaii estate tax base, are made operative as of December 31, 2009. Act 74 expressly provides an applicable exclusion amount of up to \$3,500,000 per decedent. Also, IRC section 2058 (deduction for state death taxes paid) is not made operative. Act 74 also provides for the assessment of the estate tax on transfers made by nonresidents who are not United States citizens.</p>	<p>Returns due 9 months from the decedent's date of death. An automatic 6-month extension of time to file may be requested.</p>	<p>At time of filing returns.</p>
<p>(3) General Excise (Gross Income)</p> <p>Chapter 237 --- Section 237-1 to 237-49</p>	<p>This is a business privilege tax measured by gross proceeds of sales or gross income. The tax rate is 0.5% on wholesaling and wholesale services, producing, sugar processing and pineapple canning; all other activities (retailing business and professional services, contracting, theatre, amusement, radio, interest, commissions, rentals) are taxed at 4%, except insurance commissions received by general agents, subagents and solicitors who are taxed at 0.15%. The licensing fee for general excise tax licensees and nonprofit organizations is a one-time fee of \$20.</p> <p>Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% general excise tax for business conducted in the City and County of Honolulu.</p>	<p>Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.</p>	<p>At time of filing returns.</p>

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(4) Transient Accommodations Tax Chapter 237D — Section 237D-1 to 237D-16	This is a tax levied on the furnishing of a room, apartment, suite, or the like which is customarily occupied by the transient for less than 180 consecutive days for each letting by a hotel, apartment, motel, horizontal property regime or cooperative apartment, rooming house, or other place in which lodgings are regularly furnished to transients for consideration. Act 61, SLH 2009, increases the transient accommodations tax from 8.25% to 9.25% on July 1, 2010. The registration fee for transient accommodations operators is a one-time fee of \$5 for each registration consisting of 1 to 5 units and \$15 for 6 or more units. Plan managers are liable for and pay to the State the transient accommodations tax of 7.25% that is imposed on the fair market rental value of time share vacation units.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(5) Use Chapter 238 — Section 238-1 to 238-16	This is an excise tax levied on tangible personal property which is imported or purchased from an unlicensed seller for use in the State. The tax is based upon the purchase price or value of the tangible personal property purchased or imported, whichever is applicable. Rates: 0.5%, if for resale at retail; 4%, if for use or consumption. For exceptions, see sections 238-3 and 238-4. The use tax is imposed on the value of services or contracting that are performed by an unlicensed seller at a point outside the State and imported or purchased for use in the State. Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% use tax for the importation or purchase of tangible personal property or services for use in the City and County of Honolulu.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year. These returns have been consolidated with the general excise (gross income) tax returns and are filed simultaneously.	At time of filing returns.
(6) Public Service Company Chapter 239 — Section 239-1 to 239-25	Nature of Tax—Public utility business in lieu of general excise tax. (a) Measurement of assessment—general rule: Gross income from public utility business of public utilities for preceding calendar year. For exception, see section 239-9. (b) Rates: (i) Gross income from passenger fares for transportation between points on a scheduled route by a carrier of passengers, 5.35%. (ii) Sale of its products or services to another public utility which resells such products or services, 0.5%. (iii) Sale of telecommunications services by a public utility to an interstate or foreign telecommunications services provider that is subject to the general excise tax and that resells the services to retail customers, 0.5%. (iv) All other revenues: 4% of gross income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th, and 8th month thereafter. If the total tax liability for the taxable year exceeds \$100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.
(7) Banks, Building and Loan, Financial Services Loan Companies and Certain Other Financial Corporations Chapter 241 — Section 241-1 to 241-7	(1)(a) Assessment Date: January 1. (b) Nature of Tax: a franchise tax (in lieu of net income and general excise taxes) on banks, building and loan associations, development companies, financial corporations, financial services loan companies, trust companies, mortgage loan companies, financial holding companies, small business investment companies, or subsidiaries not subject to the tax imposed by chapter 235. (2) Measure of Assessment: Net income for the preceding year from all sources as defined by chapter 235 (Income Tax Law) with modifications. (3) Rate: 7.32% of taxable income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th and 8th month thereafter. If the total tax liability for the taxable year exceeds \$100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.

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<p>(8) Fuel</p> <p>Chapter 243 — Section 243-1 to 243-16</p>	<p>Distributors, as defined, are required to pay: 2c per gallon on aviation fuel, an initial 2c per gallon on diesel oil, 2c per gallon on naphtha fuel sold for use in a power-generating facility, as defined, .25c per gallon on alternative fuels for operation of an internal combustion engine and at the rates specified below per gallon on alternative fuels, and from 25.8c to 33.5c per gallon on liquid fuels other than the foregoing; also, pay additional taxes from 23.8c to 31.5c per gallon on diesel oil used to operate motor vehicles upon the public highways, however, they are not required to pay the additional tax on diesel oil and the tax on alternative fuels if purchasers furnish Exemption Certificates, Form M-38. Refunds of liquid fuel used for agricultural equipment not operated upon the public highways, diesel oil used for motor vehicles not operated upon the public highways, and alternative fuels used for motor vehicles and internal combustion engines not operated upon the public highways may be claimed on Form M-36. Distributors are required to register and be licensed. Licenses are valid until revoked.</p> <p>Effective July 1, 2010, Act 73, SLH 2010, (1) renames the Environmental Response Tax as the Environmental Response, Energy, and Food Security Tax, and (2) increases the tax to \$1.05 per barrel or a fractional part of a barrel of petroleum product that is not aviation fuel sold by a distributor to a retail dealer or end user.</p> <p>The fuel tax is adjusted to reflect the energy content of alternative fuels as follows: ethanol- 0.145 times the rate for diesel; methanol- 0.11 times the rate for diesel; biodiesel- 0.25 times the rate for diesel; liquefied petroleum gas- 0.33 times the rate for diesel; and for other alternative fuels, the rate is based on the energy content of the fuels as compared to diesel fuel, using a lower heating value of 130,000 BTUs per gallon as a standard for diesel, so that the tax rate, on an energy content basis, is equal to one-quarter the rate for diesel fuel.</p>	<p>Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.</p>	<p>At time of filing returns.</p>
<p>(9) Liquor</p> <p>Chapter 244D — Section 244D-1 to 244D-17</p>	<p>This is a gallonage tax imposed upon "dealers" as defined in the law and certain others who sell or use liquor. A \$2.50 liquor tax permit is required and must be renewed before July 1st of each year. See section 244D-4 for exemption from tax. The tax rates per wine gallon are \$5.98 on distilled spirits, \$2.12 on sparkling wine, \$1.38 on still wine, \$.85 on cooler beverages, \$.93 on beer other than draft beer, and \$.54 on draft beer.</p>	<p>Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.</p>	<p>At time of filing returns.</p>
<p>(10) Cigarette and Tobacco</p> <p>Chapter 245 — Section 245-1 to 245-63</p>	<p>"Wholesalers" and "dealers" as defined in the law must pay an excise tax on the sale or use of tobacco products and on each cigarette sold, used, or possessed. Act 59, SLH 2010, increases the tax on cigarettes and little cigars to 15c per cigarette or little cigar sold on and after July 1, 2010.</p> <p>The tobacco tax is imposed as follows: (1) Tobacco products (other than large cigars), 70% of the wholesale price, (2) Large cigars, 50% of the wholesale price, (3) Little cigars, 15c for each little cigar.</p> <p>A \$2.50 tobacco tax license is required and must be renewed before July 1st of each year.</p> <p>Cigarette and tobacco wholesalers and dealers are required to affix stamps to individual cigarette packages as proof of payment of cigarette taxes.</p> <p>Every retailer engaged in the retail sale of cigarettes and other tobacco products is required to obtain a \$20.00 retail tobacco permit that must be renewed before December 1st of each year.</p>	<p>Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.</p>	<p>At time of filing returns.</p> <p>Cigarette tax paid through the purchase of cigarette tax stamps by licensees.</p>

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(11) Conveyance Chapter 247 — Section 247-1 to 247-13	This tax is imposed on all documents transferring ownership or interest in real property and is based on the actual and full consideration paid or to be paid. Minimum \$1 tax for each taxable transaction. The conveyance tax rate ranges from 10c per \$100 for properties with a value of less than \$600,000 to \$1 per \$100 for properties with a value of \$10,000,000, or greater. For the sale of a condominium or single family residence for which the purchaser is ineligible for a county homeowner's exemption on property tax, the conveyance tax rate ranges from 15c per \$100 for properties with a value of less than \$600,000 to \$1.25 per \$100 for properties with a value of \$10,000,000, or greater. (Documents of certain conveyances are exempted.)	A certificate of conveyance must be filed with the document at the Bureau of Conveyances within 90 days after a taxable transaction; a claim for exemption from the conveyance tax must be filed for certain exempt conveyances.	At time of filing the certificate, but no later than 90 days after the taxable transaction.
(12) Rental Motor Vehicle and Tour Vehicle Surcharge Tax Chapter 251 — Section 251-1 to 251-15	There is a rental motor vehicle surcharge tax of \$3 a day or any portion of a day that a rental motor vehicle is rented or leased. The tax is levied on the lessor. There is also a tour vehicle surcharge tax of \$65 per month for each tour vehicle in the 25 passenger seat and over category and \$15 per month for each tour vehicle in the 8 to 25 passenger seat category. The tax is levied on the tour vehicle operator. There is a one-time \$20 registration fee. Effective September 1, 2011, Act 226, SLH 2008, decreases the rental motor vehicle surcharge tax to \$2 a day or any portion of a day that a rental motor vehicle is rented or leased.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(13) Unemployment Insurance Chapter 383 — Section 383-1 to 383-176	This is a tax on wages paid by employing units with 1 or more employees with certain exemptions. The unemployment tax rate is determined according to a multi-contribution schedule system. Each year, 1 of 8 contribution schedules is applicable depending on the condition of the UI Trust Fund. An employer's contribution rate is not less than 0.00% or greater than 5.4%. There is also an additional employment and training (E & T) fund assessment on taxable wages paid to an employee. The percentage rate for this additional tax is .01%. The E & T assessment is applicable to all employing units with unemployment insurance contribution rates greater than 0.00% and less than 5.4%. There is a limitation of the tax on wages paid to an employee called the "tax base". The tax base represents 100% of the state's average annual wages reported by employers contributing to the unemployment trust fund. Note: The tax base for calendar year 2010 has been set at \$34,900.	On a quarterly basis, employers submit Form UC-B6, "Quarterly Wage, Contribution and Employment and Training Assessment Report." The report must be filed on or before the last day of the month following the report quarter.	At time of filing returns.
(14) Insurance Premiums Chapter 431 — Section 431:7-201 to 431:7-209	Tax on insurance companies (Underwriters) based on premiums written in Hawaii. In lieu of all taxes except property tax and taxes on the purchase, use or ownership of tangible personal property. Tax Rates: Life Insurance, 2.75%; Surplus Lines, 4.68%; Ocean Marine, .8775% on gross underwriting profit; and Other Insurance, 4.265%. To insurers who qualify, there is a 1% tax credit to facilitate regulatory oversight. This law is administered and the tax collected by the Insurance Commissioner, who is required to report to the Director of Taxation all amounts of taxes collected under this chapter.	Effective July 1, 2010, all authorized insurers must file and pay their premium taxes on a monthly basis rather than quarterly. The due tax for the monthly premium tax is on the 20th day of the calendar month following the month in which the taxes accrue. Annual Tax Statement is due on or before March 1 with the Insurance Commissioner.	At time of filing statements.

ADMINISTRATIVELY ATTACHED ENTITIES

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Matt H. Takata
Eric N. Yama

Date: March 27, 2012

To: Consumer Protection Committee

From: Arnold and Gail Barron
804 Cathy Lane
Cardiff by the Sea, CA 92007

Subject: HB1706 HD1

We are writing to voice our opposition to the proposed Bill HB1706 HD1. This bill requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the property. Our rental guests are fully provided with local contact information should they require assistance in the event of an emergency. This information is clearly posted in our unit. We do not need our guests to contact this party to book their reservations as the Internet has provided a more than adequate means for us to book reservations directly with individuals seeking to rent our condo.

We have been renting our unit for years and have not had any issues with guests that were unhappy with their stay. As a result of our high standard, we get a gracious amount of repeat business and referrals that we've come to be proud of. We post our phone number and email address in a "conspicuous" or prominent place in our listings in order to encourage potential guests to talk to us "one on one" about their up coming visit. We're able to give them first hand information about our experiences as a vacationing visitor. If we are requested to post our tax numbers (GE and TA) on our listing, that is not a problem and are more than happy to comply.

Respectfully, we oppose this bill. We believe it is unnecessary and will be a detriment to our ability and the ability of many others to afford to maintain ownership of a condominium such as what we have here on Maui. An action such as this will cause the condo rental industry here on the island to plummet to the point of non-recovery. This detriment will severely affect tourism that is just beginning to rebound from the current recession and it will affect the revenue sought after by the state of Hawaii.

Thank you for taking time to consider all the ramifications of this bill.

Arnold and Gail Barron
760-436-1300

Good Morning,

I understand you are considering proposed legislature requiring non resident property owners to use property managers.

I would like you to really understand it from the side of the non-resident property owner.

1. My hard earned money went to support the Hawaiian economy. We purchased through a Realtor. We re-modeled with local contractors. We purchased all items from the door bell to the wine glasses in Hawaii. We spent close to \$60,000 on a 590 square foot , 1 bedroom condo. We continue to improve it each year with flat screen tvs, our own individual internet account, new bedding on a regular basis etc. etc. etc. That is substantial money spent in Hawaii that would not have been spent and will not be spent in the future if this law passes. If I loose total control of my investment, I will sell and not support this economy any longer. A rash or sales from owners such as myself is not going to help already depressed values.
2. It is apparent to me that the Realtors initiating this movement are not as concerned with tax collection as they are with their own incomes. It is totally self serving.
3. When I first purchased I tried using a property manager. It was a disaster. I had numerous complaints on cleaning (witnessed this myself) I had 5 people booked into my one bedroom for a "party" weekend from another island. And---the worst---I had a long distance charge on my phone bill at a time the unit was supposedly empty. One of the oldest games in property management is to pick a time here and there in the units they manage and keep the money. Yes---this happens. It happens everywhere, not just Hawaii. Had the renter not made a long distance call I would never have known my unit was used with no payment to me. I wonder how many times it did actually happen. Chances of finding it on the one and only time are pretty slim.
4. These management companies take 20 to 40 % now. When they have the non-resident owner by the balls , then what??? When does it no longer make any sense to be an owner? The owner invests hundreds of thousands of dollars, carries the property taxes, condo fees, utilities, insurance, maintenance and repairs. Now take out 40—50—who knows what % in the future and it becomes a non-viable situation.
5. I personally speak with each guest, explain all association rules, provide an on island manager for contact, act as concierge by providing contact for everything from dive shops, whale watching, anniversary dinners on and on. I have a cleaner who is probably the best in Maui. I get rave reviews and most of my guests are repeaters. Some actually rented my unit before I bought it and did the re-model. They are in heaven now with slab granite, all new everything and an amazing bed. They actually have a feeling of it being "their home away from home". No guest has ever had an issue or a negative experience. Add on another 40% to their cost to visit Hawaii and many will not return. Certainly owners will pass these management fees on to the consumer. This is not a great economy and pushing the tourist trade back is not good from any point of view. To say this is for "Consumer Protection" is ludicrous. In the time I spend at my property time after time guest issues are related to poorly run management companies. Our complex requires guest to have a list of rules. I provide them in advance and clearly post them in the unit. Time after time we have witnessed major problems, some turning into shouting matches, over rules that the guest has no idea exist. Who reports that to the legislatures? Certainly not the management companies.

6. I have collected and paid every dime of transient accommodation and general excise tax required. I file a State of Hawaii income tax return every year. I declare my property as a resort property for purposes of property taxes. My taxes are around \$2600.00 while a resident occupant pays \$300.00 I am already supporting an increased expense as a mainland owner I know there are resident property owners, who would not be required to use a management company, who do not pay the TA or GTE taxes or do not declare the property as a resort property for property tax purposes. The answer to this is yes as I absolutely know of a couple who live in Maui, had a vacation rental in Maui and never declared as a resort property for property tax purposes. I turned them into the finance department. Who knows what ever happened. It took me two years of repeated attempts to get the attention of the finance department when I turned in a foreign owner who cheated on the property tax designation, rented his unit out and never paid the GTE or TA tax. All they did was make him pay the back property tax. **No penalty.** I have no idea if they cross referenced him to the TA and GTE departments. Unlikely. So-owners like these cause owners like me to be punished. This new law carries a \$1,000.00 per day penalty. Why not take the existing laws and enforce them with a \$10,000.00 penalty if owners are found cheating on TA, GTE or property tax classification. It would only take a few of these to get the word out and put an end to cheaters, residents owners or non-resident owners.
7. There are most definitely existing laws in place which could be enforced. There are cheaters. There will be cheaters with the new laws. The honest owner is the one who will be impacted by the new law. Enforcement is the key—not new, rather extreme laws. Consider a reward of \$500.00 to anyone who turns in a cheater. Of course the reward comes from the penalty assessed on the cheater. There are means to make the system work without this new proposed law.
8. The thought of some person, who may never have seen my home, answering a 800 line and booking any number of people into my home is just not fair at all. They will book any number of nights. I do not want to rent for less than 5 nights. Less than that the only person who would get ahead is the management company and the maid. In the past I required a minimum stay, maximum number of people etc. I was totally ignored and abused.
9. Consider that if the existing management companies were doing a good job, why are owners turning to the VRBO system. My property is on Maui. The management company had staff answering phones and doing bookings on another island. How hands on is that???
10. This really smacks in the face of the non resident owner. Why does it not apply to all owners? It appears to be just one more step to place the burden of running the city , state and local entities on the backs of the mainlanders.
11. Let's see: decreased property values, decreased guest stays as a result of higher costs of rentals, less incentive to invest in Hawaii. So, who does this benefit? Oh, yes—the concerned property managers, not really the overall economy.
12. I totally agree that every cheater , resident or non-resident should be found and highly penalized. I have been a Realtor in the Vail Valley for 27 years. I truly know how all this works. The Town of Avon , Colorado has now enlisted a service that checks owner managed properties against the required lodging tax payments. They collect the back taxes and fine them. What a great concept. Should you wish to investigate this you could contact Sam (female) in the finance department of the Town of Avon. Perhaps this should be a consideration before passing such a contentious law.
13. Also, why not consider all the illegal rentals that go on by resident owners who pay no TA , GTE or resort property tax. These are the little apartments in a home or an Ohana. These are all totally underground vacation rentals and in violation of the zoning codes. They cannot pay the

proper taxes as the property is not a legal rental. There are hundreds and hundreds of these in Maui alone yet no one is discussing the lack of revenue from these. Either legalize them and collect the taxes or enforce the zoning via large fines which will force the guests into properties that do collect and pay all the required taxes. How much revenue is going out the door on these rentals. Oh---yes---these are residents. Why is this situation not being addressed in this government discussion? Perhaps because then there would be an uproar of those who vote. Interesting the new law only applies to those who cannot vote.

14. Lastly, is this even legal? To make laws that only apply to certain owners seems very discriminating.

I appreciate your time to read this letter. I truly hope that you can relay to the proper individuals that there is another side to this matter and it really needs to be properly investigated before this law is passed. It should not pass at this time in this form. I am happy to be a part of the solution. Maybe a committee of non-residents could combine with the local team to come up with a situation that would meet everyone's needs. Certainly, there should be no loss of revenue to the State. Certainly an owner should be able to have control of their investment.

Certainly a group of concerned individuals from both points of view can come up with a workable solution. More time is needed. This has only come up in the last month and really needs more time for investigation. If the State of Hawaii has any respect for the people who invest there and promote the great place it is to visit they will take time to find a better solution than that which is being discussed at this time. This state would sink to the bottom of the Pacific Ocean without the money that comes in daily from the mainland. The legislation needs to show respect to the owners and guests who make their state viable. I have lived in the number one ski resort for the past 37 years and I can assure you all of us here are fully aware of the fact that without tourist dollars we would all be destitute. This community bends over backwards to be in tune with the needs of those who make out lives work. I urge Hawaii to work through a solution to tax collection and not rush to pass this at this time.

I am available to discuss this, be on a committee, provide information from the Town of Avon or any other task I can do to be of help. I arrive on Maui on April 16th and would meet with any entity on any island at any time. I know the State is not getting all their entitled revenue. Let's all work together to correct that.

Sincerely,

Barbara Murray, GRI
E-Pro, RSPS
27 Years of Real Estate Experience
Top Producer
970 331-7070
barb@barbmurray.com

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ted Franse
Organization: Individual
E-mail: tedfranse@yahoo.com
Submitted on: 3/27/2012

Comments:

You are going to KILL the owners of properties, and the resale market and tourism. I don't understand why you must intervein? Just do like the IRS does. If you don't pay your taxes? You are subject to fines, fees, and prison. It's as simple as that. Why punish the masses, for the few. Also? If all Governoring branches, wouldn't spend money, that they didn't have? Then we wouldn't have such a problem. If this becomes a law? I will have no choice, but to lose my 2 condos in Foreclosure. As, I would not make any money, as the Realtors would, taxes, and you really thing someone else is really going to try and rent my places out? I tried that and the management company took me from being rented 85% of the time, to ZERO. Which forced me to start doing it myself and I still pay my taxes.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sarah Lowther
Organization: Individual
E-mail: sarahlo@fastmail.net
Submitted on: 3/22/2012

Comments:

This bill will not only create more expensive bureaucracy, but will ultimately negatively affect tourism by driving up the cost of rental units.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ellen Ernisse

Organization: Individual

E-mail: peaceandaloha@hotmail.com

Submitted on: 3/27/2012

Comments:

We are once again asking the Senate to vote NO on another bill (HB1706) which requires owners to use a managing agent or real estate broker while renting their own personal property. These owners are paying taxes!

We are residents of Maui/Hawaii and rent two condos on VRBO. There are already laws in place to regulate taxation on transient vacation rentals. Please vote NO! Mahalo!

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cynthia Richardson
Organization: Individual
E-mail: cyntravel@yahoo.com
Submitted on: 3/27/2012

Comments:

I am writing in opposition to HB 1706

Summary of points in testimony

I would emphasize the points made below:

*Property Managers do not give the kind of diligence to individual rentals that Owners do.

*Many Owner Renters pay all taxes. Please do not penalize.

*If you are set on passing this, please put implementation at least a year away to give time for Owners to sell their property and to fulfill the bookings that are already made.

Thank you.

Support Testimony is based on Fallacy:

I read through the previous testimony. Real Estate and Property Management groups say that so much more will be collected in taxes with this legislation. This is a self-serving fallacy that has no basis in fact. There is no evidence that great hordes of vacation rental owners are not paying their taxes. An audit showed otherwise and in fact, what is more likely to happen with this ill-conceived bill is that property values would fall with a great many more condos on the market due to individual owners not being able to afford to keep them. This would reduce assessment value, the market prices being lower now, and thereby property taxes would continue their decreasing spiral. In addition those many, many owner rented vacation properties would not be in business - forced to sell - so those taxes would not be there to collect.

Rights to use of Property:

I hope you are very carefully reading the testimony that is in opposition. You propose to take away rights to the use of property for a segment of citizens and exempt others, all because of an inadequate structure for assuring taxes are collected on short term vacation rentals.

Payment of taxes:

Many, many owners of short term vacation rentals, like ourselves, pay our taxes on our rental income completely. We have been doing so for years. Why would legislators want to take away our property rights and penalize us for doing the right thing?

Problem of Realtor Management:

Since we started short term rentals in 2002 we have tried several agencies for the management and rental of our property. It has only been since I have managed the rental end of the business that we have had any success at obtaining rentals.

I put a great deal of time and care into that, which is not/ and would not be the case of an agency managing numerous properties. Of course we have an on-island agent to manage the daily care of our unit and respond to any problems that may occur.

Time to Sell:

Even with our moderate success in obtaining rentals, we do not cover the costs of the property through the rental income. We upgrade and care for our property. If we were to lose 20 -40% of that income to a Realtor, we would not be able to keep the property. Our negative cash flow for the property would be just too great. If you are going to boost the real estate and hotel industries in this manner, please give us a few years before it is implemented so that we can find a buyer for our property. Also, we'd request that you put the implementation time at least a year in advance to allow for the bookings that have been made to be honored.

The Purpose of this Proposed Legislation:

It seems if the problem you are trying to solve is getting the proper taxes paid, there should be a way directed at enforcing the laws that exist. If the purpose is to support the strong lobby for hotels and realtors, maybe you've found the way to take the individual short term vacation renters out of the market.

Horror Stories

There are Horror Stories on both sides of this issue. You are hearing about Property Management groups that go out of business, take their money and run. You are hearing about individual owners who don't have responsible on-island agents near their property to care for emergency situations. Both of these are the extremes. In fact Property Management groups are losing business because they charge too much to owners, forcing rental prices higher and do not give the personal attention that the one-owner rental can. In fact the State of Hawaii gets vast amounts of money from individual owners renting their condos and following the law. For those owners not following the law, both resident and non-resident, that is the problem to be addressed.

Thank you for the opportunity for Testimony.
Cynthia Richardson

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert Burns
Organization: Individual
E-mail: rjbdixie@aol.com
Submitted on: 3/27/2012

Comments:

We have owned a Hotel/Condo for only 23 months. We have Hawaii Tax ID and have paid all TAT and GE taxes due to the State of Hawaii. Our Maintaince fees, leasehold fees and mortgage amount to \$2000 per month. This past year our condo was rented for 210 nights. Close to break-even but not quite. Paying any additional fees to anyone is not an option for us. We will be forced to sell our condo. We feel there are better ways for the State to insure taxes are paid.

STOOPS TESTIMONY

Page 1 of 2

Ref: HB1706

March 27, 2012

March 27, 2012

OPPOSE HB1706

Dear Legislators,

One of my financial advisors is also my attorney and CPA. I asked his advice regarding the relative financial impact of bills under consideration which include HB1706, HB1707, HB2078 and SB2089. I also asked his legal opinion to understand if the Seller's Disclosure form should require disclosure of this pending litigation.

As you will see from his attached letter, he states that the "legislation, if passed with no amendment, will likely have a measureable and perhaps significant adverse impact on the value of your property, as well as all similar Hawaii real property permitted or zoned for vacation rentals."

I am this submitting note as well as my attorney's within the deadline and have written time stamped confirmation so that it must go into the Testimony file for HB1706 and become part of the permanent record.

The legal ramifications of passing into law a measure that retroactively applies to my or others' investment and causes significant decrease in value has not yet been studied by my attorney.

Thank you for the opportunity to provide testimony. I oppose HB1706.

Signed,
Elen Stoops

<https://docs.google.com/document/d/1hJEJ2wYhIfaVtIq3A3XQNXSvtO2Vlmm0TEusB...> 3/27/2012

Law Offices of
LAWRENCE H. DAMM
Palisades Plaza
15200 Sunset Boulevard, Suite 209
PACIFIC PALISADES, CALIFORNIA 90272

LAWRENCE H. DAMM, J. D., C.P.A.

TELEPHONE (310) 489-5784
TELECOPIER (310) 489-1606

March 25, 2012

Ms. Elen Stoops

Re: Pending Hawaii legislation
HB1707 HD2; HB2078 HD2; SB2089 SD1;
and, HB1706 HD1

Dear Elen,

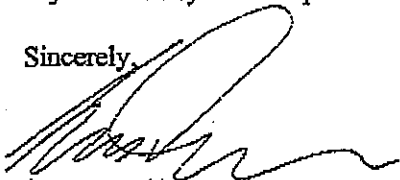
You have requested my opinion regarding the above legislation and its likely impact on real estate disclosure practices in Hawaii. Under Hawaii law, a seller of residential real property is required to fully and accurately disclose to a buyer, in writing, all "material facts" concerning the seller's property. "Material facts" are defined as "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property offered for sale."

You are a California resident who owns and actively manages a residential unit in a condominium complex in Hawaii that is approved for short term vacation rental (or transient rental). The above-referenced legislation, if passed with no amendment, will likely have a measurable and perhaps significant adverse impact on the value of your property, as well as all similar Hawaii real property permitted or zoned for vacation rentals.

As we discussed, it is likely that Hawaii real estate brokers and real estate sales agents, in the performance of their obligation to properly represent a seller of such property, will have the responsibility to disclose this impact in compliance with Hawaii law. Specifically, the placement of the disclosure would be on a seller-prepared addendum to the *Hawaii Association of Realtors Seller's Real Property Disclosure Statement*, presently in common use, to include specific reference to such legislation, if enacted.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Lawrence H. Damm

RE: **opposition to HB1706 HD1**

Dear Representative:

What causes me the most stress and anguish is the fear that this bill will force me to lose control of my home and vacation rental business to the required "agent". This isn't just an investment; I take a great deal of pride in my property and the service I provide my guests... more than a property manager ever could. I've compared my guest's feedback on TripAdvisor/FlipKey/VRBO to that of the many property managers that testified against us in committee hearings, saying they provide better service: I have more feedback with higher ratings than them, and I have no issues of the magnitude their guests have complained about (and you should hear the horror stories from owners using property managers). The bottom line for me is: turning over our home and business to these agents is unthinkable. I would sooner stop renting or sell my property before I'd let them take control. **The bottom line for you is: "rentals by owners" provide better service to guests than do property managers, and to destroy our businesses in favor of theirs will be detrimental to the states tourist industry.**

This bill refers to an "agent", but does not define the role of this agent. If the agent is merely an on-island emergency contact, then that is beneficial to the guest, but it is highly inappropriate to advertise this contact on a web page (more below).

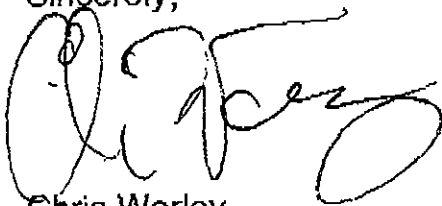
If this is an agent that is to handle the transaction, then this bill is clearly illegal under interstate commerce laws: **since there is no obvious need to have the transaction performed in the state other than to subvert interstate commerce law and assure the monetary transaction is performed in the state of Hawai'i, a judge will quickly block execution of this law.**

If the agent is merely a local emergency contact, then it is appropriate to require that information be given to a guest, possibly on our tax forms, but not be advertised elsewhere, for a variety of reasons:

- 1) Should a thief try to gain entry while my guests are on my property, the intruder would only need to see the required posted information to pose as my trusted emergency contact, and readily gain their confidence and entry in order to rob or assault my guests.
- 2) Federal law requires us to keep employee information confidential. Of course, my guests are all given emergency contact numbers... but I don't advertise my employee's names, addresses, and telephone numbers on the Internet. In what other business does an employer have to post the personal contact information of their employees on all their advertising?
- 3) These are supposed to be "emergency numbers"... posting them on the web would expose these employees to inadvertent calls, crank calls, robo-dialing salesmen, and mailing lists... possibly even identity theft.
- 4) There are web sites (three that I know of) that post my property without my permission, for bait-and-switch purposes (I've asked them to stop, but short of trying to cut-through FTC red-tape, I really have no power over them). Am I responsible for those web pages content too? Would I be in violation if they didn't post my emergency contact information? I have no control over what they do.

Please assure that whatever bill passes 1) doesn't require loss of control of my property and business to an agent, and 2) doesn't require advertising of my employees confidential information.

Sincerely,



Chris Worley

Proposed Amendments to HB1706 HD1

The reasoning behind requiring an "on-island agent" to perform rental transactions is clear:

1. Revive the legacy business model requiring an inefficient middleman, which has been supplanted by the Internet which allows the owner and guest to work together directly (although the new internet-based business model makes for more satisfied guests than the legacy property manager business model ever did).
2. Assure that all monetary transactions concerning people in (or to be in) the state occur within the state boundaries, so all applicable taxes can be collected (not just GE and TA, but the transaction "agents" income taxes too).

Therefore, this is really not a "Transient Accommodation" bill; it is an "undo the effect of the internet and attempt to revive outdated business models" combined with "increase tax revenue generation where new business model has decreased tax revenues".

Given that sales tax losses due to Internet sales dwarf any losses from GE/TA tax losses, be it resolved that all businesses on the Internet must collect sales taxes within the state of Hawai'i when selling to someone within the state. Given the estimated loss in state sales tax collection in the hundreds of millions of dollars by buyers who don't properly claim sales tax on these items, and billions in loss to local "brick-and-mortar" store sales due to Internet on-line tangible good sales (and the decreased income tax collected due to their loss in sales), the following amendment is proposed to both bills:

Any off-island Internet ("on-line") business selling tangible goods to residents of Hawai'i must perform the monetary transaction through a local, on-island, licensed retail business who will collect the appropriate Hawai'i sales tax. For this service, the local business may charge the Internet business a fee of up to 50% of the purchase price of the goods being sold.

Given that Travel Agencies have lost business to Internet travel services:

Any off-island Internet ("on-line") business selling air/ocean travel to or from any of the Hawaiian Islands, or sell hotel

accommodations within the islands, must perform the monetary transaction through a local, on-island, licensed travel agent who will collect the appropriate Hawai'i sales tax. For this service, the local travel agency may charge the Internet business a fee of up to 50% of the purchase price of the service being sold.

Given that Pages no longer run messages between elected officials in the capitol, having been supplanted by more efficient email:

Representatives and Senators shall no longer be allowed to communicate government business via email, and shall instead be required to hire Pages to hand-deliver all communications.

... Thereby collecting income taxes from these pages.

The USPS is cutting back on workers and closing rural post-offices due to the increased use of e-mail:

All solicitations over the Internet (both desired and "spam") shall not be allowed to be sent to residents of the state of Hawai'i via the Internet, and shall instead be sent by U.S. Post Office mail.

Changes such as the above should be able to stop the deleterious effects the internet has had on legacy business models and tax collection!

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: sat mahajan

Organization: Individual

E-mail: satmahajan@comcast.net

Submitted on: 3/27/2012

Comments:

We own few condo in west maui. We collect taxes and file our taxes every month. Prices have gone down and there is no way we can sell any of properties. By renting ourselves we are surviving and paying our mortgage. If we have to use real estate agent or co. we will have to foreclose. This bill will reduce investment in hawaii real estate and will cause unemployment to go higher in hawaii,

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gin Wadkins
Organization: Individual
E-mail: ginwadkins@yahoo.com
Submitted on: 3/27/2012

Comments:

We oppose HB1706. We have owned a second home on Maui for 5 years now. We monthly pay our TAT and GET and twice a year pay our property taxes. We rent out our home to vacationers to help cover the bills. We employ a local Maui company to do our cleaning and maintenance while we are away. We do not make any money off of this endeavor. However, if we are required by a new law to hire a real estate agent to manage our condo, we will not be able to afford their outrageous fees. We would be forced to sell, which would be a short sale adding to the already depressed Maui Real Estate market. Condo values will continue to decline and the tourism that keeps Hawaii alive will be adversely affected.

PLEASE DO NOT PASS THIS BILL. Doing so will only hurt Hawaii tourism, continue to decrease the value of real estate in Hawaii and put even more money into the real estate agents pockets, not the State of Hawaii.

Mahalo for your time.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Patricia Morgan
Organization: Individual
E-mail: pmorgan@olypen.com
Submitted on: 3/27/2012

Comments:
March 27, 2012

To whom it may concern:

We own a condo on Maui and live on the mainland. We pay our TAT and GE taxes as required by law. HB 1706 will require us to use a managing agent whose main interest will be to collect money and they will not be concerned about maintaining our property. We currently have a person who cares for our property and is available should renters be in need of anything. Therefore, we encourage you to enforce the laws you already have on the books and not make new ones that will, in the long run, cause increased rental rates resulting in fewer visitors and, most importantly, less revenue for Hawaii. I strongly urge you to please vote no on HB 1706.

Thank you for your careful consideration on this matter.

Sincerely,

Ken and Patricia Morgan

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kenneth Green
Organization: Individual
E-mail: mahana1012@yahoo.com
Submitted on: 3/27/2012

Comments:

As the retired owner of a condo in maui who used to rent through an agent and ultimately decided to rent it myself, I want to express my opposition to HB 1706 which seems to have been converted to SB 2089. My EHawaiiGov filing ID is 2348694 and my Hawaii Tax ID#: W30049908-01. I have always paid my TAT and GET taxes. I used to pay 40% commission to the realtor to rent our condo. I now pay about \$30.00 per month to list on VRBO and Flipkey each. My income would be significantly reduced if I was forced to use a realtor and pay even 10% commission which would be closer to 20% or more. Please do not inflict this unfair financial burden on my family and other law abiding citizens who choose to rent directly. Punish the cheaters, not the law abiding citizens! This would reduce my income to a point that I would be forced to sell our piece of paradise.

I also believe that this bill would actually reduce the tax revenue to the state. There would be some, like me, who would have to sell our rental property. That will negatively flooding the market and having an impact the real-estate market reducing the assessed values and thus the property tax revenue. Some may have to default on their mortgages because their income has dropped to such a level that they cannot afford to pay the mortgage and thus creating a short sale or even worse a default.

Please enforce the current laws which include the requirement for on island management which everyone that I know who rented directly has, and do not force us to pay a realtor or real-estate approved rental agent to do what we do ourselves.

Mahalo;
Kenneth Green

Aloha Consumer Protection Committee

I oppose HB-1706

My husband, son and I are owners of vacation properties on Oahu, Kauai and the Big Island. We pay GE and TA taxes on a monthly basis to the state on all of our rentals.

When we first started in the vacation rental business, we had a realtor managing our properties. That realtor seldom paid our taxes or bills on time and was dismissed after their staff broke into one of our condos and stole money from our guests. I decided then, that I could do a much better job of advertising and managing our rentals than a realtor that did not have the same "vested" interest in our properties. We employ several people on the islands to maintain our units and make sure that if there are any problems they can be directly addressed. Our resident managers have their contact information and find that they are very accessible as they are on site on a daily basis.

We oppose the insertion of any wording that would require "property managers or realtors" be required for off-island or out-of-state owners and feel that the term "on island contact" serves the intent of the proposed legislation.

Mahalo Nui Loa for your help.

Kathy Ochsenein

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ted Franse
Organization: Individual
E-mail: tedfranse@yahoo.com
Submitted on: 3/27/2012

Comments:

You are going to KILL the owners of properties, and the resale market and tourism. I don't understand why you must intervene? Just do like the IRS does. If you don't pay your taxes? You are subject to fines, fees, and prison. It's as simple as that. Why punish the masses, for the few. Also? If all Governing branches, wouldn't spend money, that they didn't have? Then we wouldn't have such a problem. If this becomes a law? I will have no choice, but to lose my 2 condos in Foreclosure. As, I would not make any money, as the Realtors would, taxes, and you really think someone else is really going to try and rent my places out? I tried that and the management company took me from being rented 85% of the time, to ZERO. Which forced me to start doing it myself and I still pay my taxes.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Foser Radford

Organization: Individual

E-mail: foster.radford@comcast.net

Submitted on: 3/27/2012

Comments:

We have had a Vacation rental for several decades here on Maui. We have paid all taxes regarding this property and use. We appose this bill and see no need an other layer of beaurocracy for collections of money that we have paid since this taxation started and we purchased our property.

thank you

Foster Radford

John w Oughtred
110 Kaanapali shores place
Lahaina Maui 96761

My wife and I own 2 units at this address "The Mahana" we are both against having this law pass which would force us to use a local agent or real estate personal. We have been renting and paying our taxes for over 20 years to the state of Hawaii and feel this is an unnecessary change. Why not enforce the law as it now stand. This bill will be inflationary and will raise prices of the rentals to the tourist to Maui unnecessarily. We presently use an out of state agent and are very happy with their proficiency. VRBO is our website and we gain nothing by using on Island personal.

Please do not pass this bill, Hawaii does not need this interference that raises costs to the travelling public.

Sincerely, John Oughtred

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Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rod Remington
Organization: Individual
E-mail: svandiamo@wavecable.com
Submitted on: 3/27/2012

Comments:

WE COLLECT AND PAY GE AND TAT TAXES without such a bill being proposed. We own three condos on the Big Island - which we purchased as vacation rentals. We earlier used rental manager and had nothing but headaches with them. First of all I could only plan that they would rent 3 or 4 times a year for me. One of my units they NEVER rented. Their booking was incoherent and they didn't do a very good job of managing our condos. We had renters complain that phone calls just went to messaging center. We carry our cell 24 - 7 and respond immediately when I renter calls. I am able to rent 70 to 75% of the year, by doing my own advertising and hiring someone to clean. We travel to the Island 8 to 9 times a year to check on my units and I have capable people from the island we call on if there is any kind of a problem when we have a renter there. We can not afford to HIRE someone else to rent for us or collect payments and pay my taxes. Our records are uptodate and we always collect taxes and pay them on time. Any adds we have state what the tax is that I am collecting.

I do not understand WHY the STATE of HAWAII is looking at off island investors as a problem when it comes to paying their taxes. We have spent hundreds of thousands of dollars on the island - upgrading our properties and always hire on island companies and contractors to do the work. For the amount of money we personally have brought into your state - you should be happy. With the amount of money we collect from our many renters and paying our taxes on time the state has received more funds than before. As word gets out, fewer people will want to purchase property on the Islands and you are only worsening an already weak economy. These proposed bills will not help the state recover taxes not paid. This bill will do nothing to increase the amount of money the state will receive in taxes, but likely there will be less. Perhaps the State should just try to ENFORCE LAWS THAT ALREADY ARE IN PLACE. With the proposal of these bills - I see it as a waste of the tax payers money.

I would appreciate you considering listening to the many property owners that do transient rentals, collect and pay taxes to the State of Hawaii.

Rod Remington

I wish to express my significant opposition to proposed bill HB1706. I am a Canadian Chartered Accountant living in Calgary Alberta and currently own two rental properties that I manage myself at Ekahi Village in Wailea. The first thing I did when I purchased my first property in 2009 was apply for my business number and since then I collect and remit GE and TAT on a monthly basis. My concern in this bill is three-fold. Firstly, I will experience a significant loss on both properties if I am forced to pay a management company or a real estate person a percentage of my revenues to manage my properties. As it currently stands, with none of these payments made I experience a small loss. Although I appreciate that these management companies are upset that they have lost revenues to people who manage the properties themselves, I fail to see how this is relevant as it was my capital and my investment in Maui and really it has nothing to do with them. Although I do not pay these companies a fee, I pay a significant amount to on-island cleaners and repair people thus keeping work on Maui. My second concern, and probably the most important to me, is a loss of control. I would NOT have purchased these properties had I known that I had to use one of these companies to rent my condos. I personally screen each and every renter and do not rent to people who I do not feel will take care of my units. I recently had to attend the AGM at Ekahi Village as I am a director on the Board and I rented a unit that was managed by Destination Resorts as my condos were rented before the meeting date was announced. The unit was absolutely disgusting. It was dirty and very clear that it was being managed poorly by people who did not care. I will not subject myself, my property or people who rent my property to this and will absolutely sell (and likely incur a substantial loss in the process). My third area of concern is my concern for the property values in HI and the economy in general. I personally have seven friends (all Canadians) that have purchased condos in Maui this past year and all of them are renting them out themselves. None of these individuals would have pursued this type of investment if this bill was law. In fact, yesterday, an individual from my husband's office, who is in the process of negotiating a deal on a Grand Champions condo in Wailea has stopped the process until he gets more information on what is happening with these bills. From what I have heard, there are many Canadians who are purchasing properties in HI and should this come to pass this will severely curtail these investments. The real estate market seems to be just getting out of its downward spiral and this will kill the market. It will also kill tourism. People, Canadians in particular, love to rent through VRBO. They like contact with the owner and knowing what they are getting. I would never again rent a condo through a property management company in Maui!

Please take my comments into consideration. I think this bill as it stands is very unfair to a hard working tax payer like myself who is doing everything right and who is generally concerned about the state and well-being of my favourite State in the US. Please do not insert realtors or property managers into this equation at all and instead focus on the enforcement of Hawaii's current legislation and laws.

Tracy L. Whitmore
Wailea Ekahi Condos
316 40th Avenue SW
Calgary, Alberta, Canada
T2S0X4
whit11@me.com

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Danielle Gall

Organization: Individual

E-mail: danielle.gall@homedepot.com

Submitted on: 3/27/2012

Comments:

Bill HB1706, will be reviewed by the Consumer Protection Committee. I agree with the intent of this bill but feel it still does not clearly or fairly represent the interest of all property owners, whether resident or non-resident and leaves me with questions:

- I am concerned that the bill may be changed to reflect that the rental agent be a licensed real estate professional.

- I believe that the term rental agent should be changed to Designated Local Contact.

- o I do not believe that the legislature should mandate who oversees the rental and management of vacation rental properties, properties that are lawfully owned and operated. This decision should be left up to individual property owners.

- o At the heart of this bill is the core issue of tax compliance through the proper collection and reporting of GET/TAT taxes. I believe that the legislature first needs to validate the claims under reported taxes with fact based supporting evidence and documentation. Additionally, I believe that education of the tax laws should be a priority for all property owners - resident as well as non-resident owners. The state already has a program in place to identify, collect and enforce tax compliance. Enforcement of the current tax laws should be a priority. Do not penalize lawful owners who properly collect and report GET/TAT taxes by taking away our rights.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Peters

Organization: Individual

E-mail: kenp@bigislandhost.net

Submitted on: 3/27/2012

Comments:

Aloha honorable committee

Might I suggest that this bill refer to "Local Contact" instead of rental agent. While all person renting should have a local contact, the term "Rental Agent" can be interpreted in different ways.

Mahalo

Ken Peters

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dorothy Larsen
Organization: Individual
E-mail: dotlars@frontier.com
Submitted on: 3/27/2012

Comments:

As a non-resident vacation rental property owner, I am writing in opposition to these bills, and all of the others that you have stacked up that introduce the same subject under another heading. If you have been reading the testimonies in opposition, you will know that fears, concerns, suggestions, solutions have already been stated in various forms, by the owners. I do not understand how the government can allow such a devastating bill that will adversely affect the people that love this state. We are all losers if you allow these bills to pass. Please remember why you were voted into office..... a voice for the people.

Thank you for your consideration,
Dorothy Larsen

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Brad Kreller
Organization: Individual
E-mail: kreller2124@aol.com
Submitted on: 3/27/2012

Comments:

While we agree with the intent of this bill, we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.
- We believe that the term of rental agent should be changed to designated local contact.

Comments:

I am OPPOSED to this bill. We own three condos on the Big Island - which we purchased as 2nd homes and vacation rentals. I tried earlier using a rental manager and had nothing but headaches with them. First of all I could only plan that they would rent 3 or 4 times a year for me. One of my units they NEVER rented. I am able to rent 70 to 75% of the year, by doing my own advertising and hiring someone to clean. I travel to the Island 8 to 9 times a year to check on my units and I have capable people from the island I call on if there is any kind of a problem when I have a renter there. I can not afford to HIRE someone else to rent for me or collect payments and pay my taxes. I keep very good records and we always collect taxes and pay them on time. My advertisements states how much the Hawaii State tax is that I will be collecting.

Myself like many others, are in disbelief that the State of Hawaii would treat of island property owners like this. We have spent hundreds of thousands of dollars on the island - upgrading our properties and always hiring on island companies and contractors to do the work. For the amount of money I personally have brought into your state - and all my friends seeing what is happening - you can be assured that others will look at this and decide NOT TO BUY properties in the State of Hawaii. This bill will do nothing to increase the amount of money the state will receive in taxes, but likely there will be less.

I don't understand WHY the State can not collect the taxes owed them without passing new laws. What a waste of the tax payer's money.

Thanks for considering my testimony.

Sylvia Remington

La Conner WA

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sandra Bilson

Organization: Individual

E-mail: sandysbeachpad@mac.com

Submitted on: 3/27/2012

Comments:

This is a horrible bill that will force many, like myself, to sell their property.

To pay 25 - 50% of rental income to an outside company would destroy our ability to keep our properties afloat. Rents would have to be raised through the roof and this would cause less tourism and less \$\$ to the state of HI.

I pay my taxes honestly and on time. This bill only serves the real estate industry and penalizes honest citizens who pay their taxes. Those who are dishonest and don't pay will most definitely not give 25-50% of their income away. There must be many other ways to find those who are not paying tax.

I actually don't think this law is constitutional. It is like confiscation of property.

Sandra Bilson, Property Owner

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: LuAnn Boone
Organization: Individual
E-mail: lboone70@gmail.com
Submitted on: 3/27/2012

Comments:

Understand the intent of the bill but opposed to current language. Suggest the term "on island contact" be used instead of current language.
Understand the need to be sure all pay taxes, but strongly oppose the current legislation under consideration. Please focus efforts on enforcement of current laws already on the books.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rich Biederman
Organization: Individual
E-mail: polyshores@yahoo.com
Submitted on: 3/27/2012

Comments:

I have a condo on Maui which rent by managing it myself as I cannot afford the luxury of having a home and paying a rental manager. I pay my taxes religiously quarterly and feel that I am being penalized by being a good citizen and doing what I am supposed to do. If I have to pay a real estate broker a commission to do what I am already doing it gives me an unlawful and unnecessary expense. Please do not pass on this legislation. Mahalo

WE COLLECT AND PAY GE AND TAT TAXES without such a bill being proposed. We own three condos on the Big Island - which we purchased as vacation rentals. We earlier used rental manager and had nothing but headaches with them. First of all I could only plan that they would rent 3 or 4 times a year for me. One of my units they NEVER rented. Their booking was incoherent and they didn't do a very good job of managing our condos. We had renters complain that phone calls just went to messaging center. We carry our cell 24 - 7 and respond immediately when I renter calls. I am able to rent 70 to 75% of the year, by doing my own advertising and hiring someone to clean. We travel to the Island 8 to 9 times a year to check on my units and I have capable people from the island we call on if there is any kind of a problem when we have a renter there. We can not afford to HIRE someone else to rent for us or collect payments and pay my taxes. Our records are uptodate and we always collect taxes and pay them on time. Any adds we have state what the tax is that I am collecting.

I do not understand WHY the STATE of HAWAII is looking at off island investors as a problem when it comes to paying their taxes. We have spent hundreds of thousands of dollars on the island - upgrading our properties and always hire on island companies and contractors to do the work. For the amount of money we personally have brought into your state - you should be happy. With the amount of money we collect from our many renters and paying our taxes on time the state has received more funds than before. As word gets out, fewer people will want to purchase property on the Islands and you are only worsening an already weak economy. These proposed bills will not help the state recover taxes not paid. This bill will do nothing to increase the amount of money the state will receive in taxes, but likely there will be less. Perhaps the State should just try to ENFORCE LAWS THAT ALREADY ARE IN PLACE. With the proposal of these bills - I see it as a waste OF the tax payers money.

I would appreciate you considering listening to the many property owners that do transient rentals, collect and pay taxes to the State of Hawaii.

Rod Remington
La Conner, WA
Waikoloa Hawaii

I oppose hb1706

I am a tax paying condo owner on the Big Island. I have always collected from guests and remitted to Hawaii the GET & TAT I collect.

I have on island contacts and I am available 24/7 if there is a problem.

I have had experience with management companies and that has been a very impersonal and expensive service. I provide a human touch and personal touch with my guests and this I know helps them to enjoy Hawaii even more.

I do not want to have managers tell me who I will have in my condo. I select those that through my phone calls and references that I believe will leave my, newly renovated, condo as they found it. I also have had experience with guests sent by a management company and those were the guests who have done damage and treated my condo poorly. Management companies do not screen their guests. This I cannot allow to happen to my beautiful condo.

Thank you

D.Materi

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Martin and Dianne Smith
Organization: Individual
E-mail: dmsfremont55@sbcglobal.net
Submitted on: 3/27/2012

Comments:
OPPOSE HB 1706

The legislators of Hawaii need to be aware of a serious effort among some real estate property managers to insert themselves between visitors to the islands and the proprietors of transient vacation rental homes, to manage their bookings and pay their GE/TA taxes while charging a thirty to forty percent commission. However, the vast majority of vacation rental businesses are efficiently run and do not need or want to use real estate professionals. Many of these owners operate on razor thin or non-existent profit margins, and should HB 1706 become law, would no longer be able to conduct business.

The term "rental agent" should be changed to "designated local contact." All owners must have on-site help to successfully manage their vacation rentals, but their staffs may be housekeepers, repairmen, or just trusted neighbors or family members. The State's goal to protect consumers could be solved most simply by requiring owners to post the name and phone number of their designated local contact inside the rental property and on the rental documents.

Thank you for the opportunity to voice our opinion.

Martin and Dianne Smith

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Robert Venning

Organization: Individual

E-mail: rentals@alohasands.com

Submitted on: 3/24/2012

Comments:

This bill may seem like a good idea, and it will certainly be a financial bonanza for real estate managers, but ... as a non-resident condo owner I feel it is enormously unfair. I've been successfully managing my condo and paying the transient occupancy and general sales taxes. Hawaii has benefited. But recently rentals have been down and I've considered selling. If this passes I probably will sell, even if it means a loss. I don't want to do business in such a hostile and unfair environment. Others will do likewise. Property values will go down more. In the end, Hawaii will suffer for it, not benefit from it.

Also, aren't there constitutional limits on one state discriminating against residents of another? Won't these apply if the law does not also cover any person, including residents of Hawaii, who rents out for less than 30-days?

Finally, until now I had always genuinely admired the "aloha spirit." I didn't think Hawaiians were into this kind of parochial discrimination. I hope this bill is rejected, and the dent this idea has made in my belief in Hawaii is repaired.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Chris Faris

Organization: Individual

E-mail: chrisfaris@comcast.net

Submitted on: 3/23/2012

Comments:

It is unclear exactly what problem this legislation is designed to solve. Most of us who own homes/units in the islands already have primary and secondary contacts for support...whether it is neighbors, property managers, cleaning teams, friends or families, it isn't clear that this is something necessary to legislate. I am available via mobile phone, email, text message etc. to support anyone using my property without this being legislated...good business practices, courtesy and common sense suggests that one provide this level of contact information, whether in or out of state. Best regards, Chris

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Yvonne Gilbert

Organization: Individual

E-mail: yvonnegilbert744@gmail.com

Submitted on: 3/23/2012

Comments:

I would like to see the wording changed from Rental Agent to Designated Local Contact. I do not want to be obligated to hire a Rental Agent. That will also mean paying a commission. I completely oppose the wording as you have stated it. Please change it so there is not a gray area.

Please say Designated Local Contact.

Property owner in Kauai,

Yvonne Gilbert

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Roderick Michael Gilbert

Organization: Individual

E-mail: kiddgibert@yahoo.com

Submitted on: 3/23/2012

Comments:

I would like to see the wording changed from Rental Agent to Designated Local Contact. I do not want to be obligated to hire a Rental Agent. That will also mean paying a commission. I completely oppose the wording as you have stated it. Please change it so there is not a gray area.

Please say Designated Local Contact.

Property owner in Kauai,

Roderick Michael Gilbert

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Frank and Dolores Smith
Organization: Individual
E-mail: MauiSmiths@aol.com
Submitted on: 3/22/2012

Comments:

We agree with the intent of the bill, however we have concerns as follows: Term "Rental Agent" should be changed to "designated local contact or agent" (not rental agent). We do not want local real estate agents managing our property. We have owned the property for more than 20 years, and during the first 8 years we had a local realestate company managing the condo. It was a disaster, our guests and us were unhappy with the service received. We always provide local contact information to our guests and we have ALWAYS paid our TAT and GEt taxes.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kathie Wagner

Organization: Individual

E-mail: kathie@hiddenmauiparadise.com

Submitted on: 3/27/2012

Comments:

How will this in any way benefit the State of Hawaii, especially in the current climate? Rental prices will increase, therefore decrease the number of vacationers to the islands. We currently collect taxes for the unit that are submitted to the State. Who will this benefit? No one other than a few property managers. NOT owners, nor renters. For us, it would probably mean a hardship as I can't see us being able to even cover costs to keep the property we purchased last year as times as so tight already for every dollar spent by vacationers coming to the island. Again, what is the point of this bill?

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Peter Schenck
Organization: Individual
E-mail: emas@aol.com
Submitted on: 3/27/2012

Comments:

My wife and I are annual visitors to Hawaii as well as former residents. In short I would caution you strongly:THERE IS A LIMIT TO WHAT PEOPLE CAN AND WILL PAY and Hawaii is dangerously close already.

With Kamaaina rates you are protected from knowing firsthand what it feels like to be a visitor. While Hawaii is enjoying a resurgence in visitor numbers, a bill like this can reverse the trends instantaneously.

There must be a better way to ensure that the State gets its due without taking steps to wholly alter the economics of shelter within the visitor industry.

I sincerely hope you seek an alternative method.

Thank you.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cara Birkholz
Organization: Individual
E-mail: carabirk@gmail.com
Submitted on: 3/24/2012

Comments:

I am a Maui resident and own four vacation rental condos on Maui. I am opposed to the wording of this legislation. I agree that the building manager of the condo complexes should have a local contact person to call for guest emergencies, water damage etc. However, requiring owners to have a rental agent will drive many of them 'underground', defeating the purpose. Non-resident owners are very opposed to this self-serving legislation being pushed by rental agencies who stand to gain a lot of money from this new bill (together with HB 2078). I don't see how it would benefit the State of Hawaii.

March 24, 2012

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Dear Committee Members:

I am an out-of-state owner of a single condominium unit in Maui, I rent my unit out to Hawaii visitors as a short term rental, and manage my rental myself. **I am opposed to HB1706.** My condominium unit is zoned for short term rentals, and I pay all required Hawaii and Federal tax (Tax ID W07166922-01). It is the only rental unit I own; the only other property I own is my personal home in Oregon. I purchased my condo unit as an investment.

Before I purchased my condo I did research about Hawaii laws and the economics of renting a condo in Hawaii. I learned that hiring a rental company to manage my single rental unit would be extremely expensive, and I would not be able to afford owning the condo unless I managed it myself. Managing companies require 25 to 50%, or more, of all revenues (not just after expense profits); and this is more than I make in profit each year. I would not be able to afford this extra, state mandatory fee, and would be forced to sell my property.

As an owner, I am fortunate that I own my condo outright; I do not have a mortgage. But most owners have a mortgage, and are actually underwater. Most don't even make a profit as I do. This additional mandatory fee would force many out-of-state owners to sell, at a minimum, or declare bankruptcy, at worse. This would also cause thousands of properties to be put on the market overnight, many of which as distressed properties. This would cause a glut in the Hawaii market, causing home prices to fall, and hurting every Hawaii homeowner.

I do not see this bill increasing tax revenues for the state. Those owners who don't pay taxes are already breaking the law. This new law would not cause these owners to suddenly decide to follow the law and pay their taxes. This law would only hurt those lawful owners how follow the laws and pay their taxes.

I am not only concerned for myself, and the future of my property, I am also concerned for those individuals I hire to maintain my property in my absence. My cleaner (an independent married couple who cleans for private owners), my guest greeter and maintenance man (a retired contractor who makes extra money helping me out), and my on-island agent (a personal friend who only looks after my single unit). I hire these people and follow all state and federal reporting laws, including filling yearly 1099s. If I am forced out of business because of this new law, all these Hawaii residents would suffer, and the state would loose income tax revenues.

I would lose my rental income and be forced to sell my condo, the people I hire would lose income, Hawaii home owners would lose property value, the State would lose property tax and income tax revenues, and those people who do not follow the law and do not pay taxes would continue to not follow the law and not pay taxes. The only beneficiaries of this proposed law would be the managing companies, who pay their employees minimum wage, with most of their profits going out-of-state to their large corporate stakeholders.

Respectfully submitted,

Christopher Humphrey
2925 NE 46th Avenue
Portland, OR 97213

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: joani duncan

Organization: Individual

E-mail: joaniduncan@sbcglobal.net

Submitted on: 3/23/2012

Comments:

My husband and I are shocked that the government of our beautiful island would try to pass such a law - this is an act of BIG BROTHER government. We own a condo, we pay State and TAT taxes when we're off island and need to rent it out or would not be able to even own it. If you take away our RIGHTS of managing it ourselves we would probably loose our dream. I would ask that those already doing the right thing and paying their taxes should have the right to keep that right and NOT be penalized. Thank you.

Also.....does the law really take affect in the year 3000??

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gayle
Organization: Individual
E-mail: gayle.kona101@gmail.com
Submitted on: 3/23/2012

Comments:

This Bill is DISCRIMINATORY Against Vacation Rental Owners and INVADES Their Privacy and This IS Still a FREE Country and we should have the option to Hire or Not Hire an Outside Company and pay them their High Commissions.

This Should Not Pertain to the Owners that can prove they have paid their taxes on time every time.

Passing this Bill WILL NOT force owners to pay the Taxes. If they do not want to pay they will still find a way around it. IT WILL Only make it more difficult and expensive for the Honest Owner as ourselves that pay our Taxes faithfully and in an Economy where Owners are defaulting every day on their vacation rental responsibilities to Insist and Add more Fees on top of what we already pay by having to hire outside Inept Companies and Pay them high commissions is Ridiculous. The Owners Lose all the way around. The only ones that win are the Offices that developed this Issue to Benefit them, NOT THE OWNERS. So the Banks will be receiving more Defaults on Properties if this is passed as Owners Cannot afford more FEES that are Not Necessary. This will Inhibit the Honest Owners, Not the Dishonest Owners. For the Owners that are not paying their Taxes they need to be contacted and dealt with in another manner.

The Only Reason we can meet our monthly obligations for Our Vacation Rental is because we do the bookings ourselves and Adding another expense to us for it WILL BE a Hardship and as I know is true for other Owners, We Will Default and the Banks Already have more properties due to Defaults than they know what to do with.

THE TRAVEL INDUSTRY IS JUST STARTING TO PICK UP AGAIN AND IF THE OWNERS ARE FORCED TO RAISE THE RATES TO COVER ADDITIONAL FEES THE TRAVELERS WILL GO SOMEPLACE ELSE BECAUSE THEY WILL NOT PAY THE HIGH RATES AND HAWAII WILL EARN BACK THE REPUTATION OF AN EXPENSIVE PLACE TO VACATION AND ALL OF HAWAII WILL SUFFER FROM THE LOSS OF TOURISM.

This BILL SHOULD NOT BE PASSED as It DISCRIMINATES against us as Homeowners AND our RIGHTS To RENT OUT OUR OWN HOMES.

Ron Mackey

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Hauer
Organization: Individual
E-mail: divemore333@yahoo.com
Submitted on: 3/23/2012

Comments:

As a property owner, I believe this measure will increase costs and reduce tax revenue. By increasing costs to the owners and associations it will help to hold down appraised property values. This measure will reduce the attractiveness of HI properties. Values down also holds rentals down. Additionally, real estate management is probably the most corrupt business in Hawaii. Therefore this measure would support more corruption at the local level. We tried to use a property agent. We wanted to use a property agent. Alas we discovered the shadiest characters in Waikoloa in the real estate business. We had to stop doing that due to the losses to the local agent. We were out thousands of dollars and numerous rentals due to the BI Waikoloa agent we used. Please vote NO.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Howard Brunner

Organization: Individual

E-mail: howard@howardbrunner.com

Submitted on: 3/23/2012

Comments:

Tourism committee March 28th 1:15

I write to oppose SB1706 SD1.

I have rented my condo for 30 years and have always been licensed and paid all taxes including GET, TAT, and property.

What is the real purpose of this law, which will obviously add expense and burdens on the Condo owner? Do you really want me and others to say I just won't rent anymore, because the costs and hassles are too great? Is it a benefit for our government to lose the tax revenue and to have me pay less in property tax because I will no longer be Hotel-Resort property?

Property managers don't help tax collections. They have a clear record of increasing owners costs.

Please consider how else you can better enforce EXISTING LAWS requiring the payment of GET and TAT. Don't add another law which will be ignored by those who aren't paying the proper taxes. It will just penalize the law abiders.

Respectfully Submitted
Charles N. Dewey, Jr
10 Wailea Ekolu Place
Kihei HI 96753

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat Starkie
Organization: Individual
E-mail: pjswims@aol.com
Submitted on: 3/23/2012

Comments:

Condominiums; Rental Agents NEED TO DEFINE RENTAL AGENTS
Description: Requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the unit. Effective January 1, 3000. (HB1706 HD1) THIS BILL SERVES NO PURPOSE ???

Dear Lawmakers,
I oppose bill 1706 SD1.

Bill SB1706 SD1, which recently passed the House and is now in the Senate

I agree with the intent of this bill but I feel it leaves me with a few questions.

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.
- I believe that the term on rental agent should be changed to designated local contact.

On King Lau
10700 Alexander Falls Ave
Bakersfield, CA 93312
408-806-4583

Meera Kohler
12800 Huffman Circle
Anchorage, Alaska 99516
(907) 952-6161
mkohler@avec.org

March 25, 2012

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: Opposition to HB 1706

Honorable Chair, Vice Chair and Committee Members,

Before you today is a bill that purports to treat very differently two classes of private residential property owners: those that reside on the island on which the property is located and those that do not. Discriminating between how these two classes of owners are required to manage their properties is inappropriate, intrusive and probably unconstitutional.

I recognize that a perception exists that many Transient Visitor Rental (TVR) owners are not legally registered and either not collecting appropriate taxes from visitors or are not transmitting those taxes to the State of Hawaii. If indeed this is occurring – and there are no bona fide studies that substantiate the existence or size of the problem – then all TVR owners should be required to adhere to requirements that:

1. They register with the State and obtain a unique identification number as required by existing law.
2. They collect and submit taxes in a timely manner in accordance with existing law.
3. They provide the name of an on-island contact to their guests and the Association manager of the building in which their residence is located, in accordance with existing law. An owner who resides on the island on which their property is located may identify themselves as the on-island contact but must also provide an alternate on-island contact for any period of time during which they are physically absent from that island.

HB 1706 requires that non-resident TVR owners provide the Building Association with the name, address and telephone number of a "rental agent" who is located in the State who is "responsible for the management of the apartment."

This language would appear to wrest management of my unit from me, as an owner, and bestow it upon an agent who has no ownership interest in my property. No doubt you have heard horror stories from those who would gain from such a requirement (the realty community) of guests who have languished due to the absence of the owner or their agent. We have similar horror stories of such "management agencies" who have neglected homes and guests and who have literally driven individual owners like me out of business because of utter neglect and an inability to keep the homes cared for or occupied.

A central issue is that the Department of Taxation is clearly underfunded or understaffed to enforce existing laws. Creating new laws will not alleviate this inadequacy but rather will make matters worse.

Please do not pass this bill out of your committee!

Sincerely,



Meera Kohler
Non-resident Owner and Frequent Visitor

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gerald Johnson
Organization: Individual
E-mail: rascalnorth@aol.com
Submitted on: 3/25/2012

Comments:

I oppose this bill.

It is another example of the government over regulating small business and hurting the economy.

There is already laws on the books to cover this bill's content. Enforce the law!

If the dept. of taxation can't enforce the law, fix the dept to respond to the law.

You are creating more problems than you are helping. But, I know that you think the government knows what is best for peons like me.

Gerald H Johnson

Dear Committee Chair Rosalyn H. Baker, Chair and the Committee on Commerce and Consumer Protection,

We are confused about the intention of HB 1706. In part it adds a new term "rental agent" to Chapter 1 Sections 514A and 514B where that term is not defined. Already we are required to notify our complex's resident manager and managing agent who our **On Island Contact** is which we believe is already required in Hawaii law. So if that is what rental agent means then this change to HB 1706 is redundant and unnecessary.

However, having followed SB 2089 and HB 1707, we can imagine the possibility that "rental agent" would mean that I was required to have someone handle the rental of my condominium (my own personal property) which we have significant issues with. We can also imagine that the intent would be to somehow better collect the TA and GE taxes.

Let us first say that we understand the need for the State of Hawaii to collect the taxes that it is owed. However requiring businesses that do pay the GE and TA taxes, and file tax returns with the state of Hawaii to use a "rental agent" is not the right way to solve the problem.

- 1) On August 1, 2010 we purchased a condominium on the Big Island that we use as a second home (where we plan to retire to) and vacation rental. We have created a very successful and legitimate business. Originally when we started our business we applied for and received a General Excise Tax License and Transient Accommodations Tax Certificate of Registration from the state of Hawaii. We pay our Transient Accommodations and General Exercise Tax monthly (we have never paid late) and we have completed the Hawaii State Tax Return for 2010 and will do so for 2011.

Given that we are operating a legitimate business it does seem unjust that the State of Hawaii might determine that we can't manage our own business and that we would have to use a "rental agent". That does not seem like the American Way.

- 2) We are concerned for any legislation that would hamper the housing recovery. From our vantage point we believe this legislation would push more homes/condos into foreclosure. For a person to hire a rental agent, 25% to 40% of the rental income would go to the rental agent. For many people that increased cost would push them into foreclosure. Our complex only has 20 units and one is already in foreclosure. The increase in foreclosures would reduce property values. So would the reduction in potential rental income.

A byproduct of the reduced property values would be the reduced property tax that the State of Hawaii is able to collect.

- 3) We also question the assumption that someone who lives on the Island where their rental property is located is more likely to pay the Transient Accommodations' and General Excise Tax. We are not sure that is the case and the way the current legislation is written seems discriminatory.
- 4) We also want to address the quality of service issue. There seems to be a belief that you will receive far superior service if you have a rental agent to rent from rather than renting from someone who lives off Island. As we noted before we have owned our condo for only a year and half. During that time we have never had a week vacancy. We have great reviews from our guests, return business and lots of referrals. Our complex has a resident manager and we have a fabulous **On Island Contact** that we pay to immediately address our guests concerns and to inspect our condo after each guest leaves and new guests arrive. Our complexes managing agent and the resident manager have the contact information for our **On Island Contact**. My husband and I are also available by phone or email for our guests.

There are a number of condos in our complex managed by property management companies/ licensed real estate agent or broker. When we have been staying at our condo we have meet several disgruntled guests who have rented from those companies. Good service is not guaranteed just because you rented your vacation rental from a property management company/ licensed real estate agent or broker/rental agent. As we advertise through web sites we can only afford to have good reviews. One bad review and our business would suffer dramatically. I am proud to say we have only had excellent reviews and they consistently comment on the high quality of the service that they receive and that our accommodations exceeded their expectations.

Here is an email we received from our latest guest after her stay:

"Thank you Janice, the condo was everything it said it was and much more. The building and garden are well cared for and my daughter was appreciative of the little smoking area. You could tell you are hands on owner, it shows. Maybe again sometime.

Sincerely Anne"

Given the above it seems to us that there should be a better way to address this problem. In the least, legitimate businesses like ours should be able to have an exclusion from having to use a rental agent. There should be some way for the State of Hawaii to increase the number of businesses that pay the Transient Accommodations and General Excise tax without taking away the right of licensed and tax paying business owners to manage their own properties.

We are partners with you in the Hawaii Tourism business and future permanent Hawaii residents. We want Hawaii to be financially sound and to receive the tax income that it is owed. However we feel strongly that HB 1706 is not the right means to that end.

Thank you for your time and consideration,

Janice Townsend

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position:

Testifier will be present: No

Submitted by: JUDY LIVINGSTON

Organization: Individual

E-mail: JUDITHDBAY@AOL.COM

Submitted on: 3/24/2012

Comments:

I OPPOSE HB1706. PLEASE SUPPORT US IN VOTING FOR US AND NOT AGAINST US. MAHALO J LIVINGSTON

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Charles Dixon
Organization: Individual
E-mail: chuckdar@mtco.com
Submitted on: 3/24/2012

Comments:

We have spent an average of two months per year on Kauai for the past ten years. We reside in Illinois. We spend a good deal of money coming to Hawaii. Any legislation that will increase our costs may make it impossible for us to come. We already pay a large hotel tax. We do have other alternatives where we can spend our winters. Please consider us retirees when dealing with any legislation, such as this bill, that would increase our costs.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Carol Coppe

Organization: Individual

E-mail: cc.travlr@verizon.net

Submitted on: 3/24/2012

Comments:

I support following the laws for paying taxes, but I am opposed to inserting property managers or realtors into the equation. No one cares more for my property or could manage it any better than myself. There must be others methods to make sure people are paying the required taxes. I recommend enforcing the existing laws.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat & Andy Starkie
Organization: Individual
E-mail: starguire@aol.com
Submitted on: 3/25/2012

Comments:

Honorable Chair, Vice Chair and Committee Members

I am opposed to HB 1706

My husband and I purchased a vacation rental home in 2004 on the Big Island of Hawaii. It was a dream come true for us to purchase a "slice of Paradise" in 2004. We love Hawaii and started going there in the 1970s and fell in love with the Big Island while on our honeymoon. Many years later, we found our perfect Hawaii house in Kapoho. We have so much fun sharing our home with travelers, we found another home that we fell in love with and purchased a second home to rent to visitors to Hawaii. We have many family commitments on the mainland and cannot move there full time, but we love sharing our vacation rental homes with other travelers. We have taken the position of being available for these folks 24/7. Everyday we hear from excited, prospective guests and we look forward to talking with them. I handle the administrative process and I love everything about my "job." I converse with these people, share tips about the Big Island, help with their airline tickets, car rentals, set up their reservations and make arrangements for their accommodations at our "slice of Paradise."

We employ a licensed, local, Hawaiian lady and her family who live near the homes. She takes care of our homes and whatever else we need. Her children help her and her husband does our repair work. She is not a "realtor" or "salesperson" or "property manager." She is a Kama'aina, born on the Big Island of Hawaii. She receives a 1099-Misc from us each year. She is bonded and insured and a small business person. If this bill passes, not only will I lose my "job" but this remarkable lady and her husband will lose their jobs, also. The legislatures do not have the consumer's protection at heart, as it will no longer be affordable for some visitors to come to Hawaii.

I'm getting the feeling that my voice does not factor in Hawaii State Legislature considerations, because I am a "non-resident" and currently not registered to vote. The GET and TAT that I collect and remit is in support for the schools, hospitals, services, and infrastructure that keep Hawaii running. This would be the same that a resident collects and remits. I, along with other non-residents who own property in Hawaii, contribute to a strong and economically viable Hawaii; the same way a resident does, by paying taxes and even increased property taxes.

I think if you are going to have these restrictions on non-residents, then you have to impose the same restrictions on residents. Otherwise, this is discrimination! If you are intent on passing this, you need to put a "cap" on

what your "realtors" and "property managers" can earn who will be taking our jobs away from us. There needs to be random audits by the State of these realtors and a system of checks and balances, as well as fines for non-compliance. They will need to carry insurance.

I feel strongly about another consideration and that is our NAFTA agreement with our friends in Canada. Many of our guests are from Canada, and many own property in Hawaii. If they are treated "less favorably" than Hawaii's own resident investors with respect to all aspects, including management of their properties, that is going against NAFTA Article 1102: National Treatment. If this Bill passes, other states will figure they can impose this "less favorable" treatment on Canadian's who own property in their states. Trade with Canada is huge! Hawaii will be responsible for starting this domino effect.

There is a provision for Tax Compliant people for exemptions in hiring a "realtor" if we have Tax Clearance Proof as well as 1099's. This was not well thought out, as whom will we get these 1099's from? Our guests? The details of this provision certainly leads some clarification.

I find it hard to believe that your ultimate goal is to drive tourism out of Hawaii, but that is exactly what you will do! Visitors won't be able to afford to come to Hawaii and they won't get the personal treatment that they get now from people like us. Out of state owners won't be able to hang on to their property financially. The small business people we employ will be forced to work for hourly wages for "property managers."

Where is the "real" data to support the claims that have been presented about non-residents not paying taxes? What is wrong with educating people and enforcing the laws you already have as far as getting Transient Accommodation licenses and General Excise licenses and payment of taxes? Putting new laws on the books when you can't enforce old laws, is not a solution.

Respectfully submitted:
Pat & Andy Starkie
www.bigislandhawaiiivacationhomes.com
Morro Bay, CA 93442

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Meredith G. Johnson
Organization: Individual
E-mail: akamumra@aol.com
Submitted on: 3/25/2012

Comments:

Honorable Chair, Vice Chair and Committee Members

I am opposed to HB 1706

My husband and I are retired but still work our family farm in Florida. It was a dream come true for us to purchase a "slice of Paradise" in 2009. We aren't able to retire there yet, but we hope to someday. In the meantime, we share our condo with visitors to Maui at a very affordable cost. We have taken the position of being available for these folks 24/7. Everyday we hear from excited, prospective guests and we look forward to talking with them. I handle the administrative process and I love everything about my "job." I converse with these people, share tips about Maui, help with their wedding plans, set up their reservations and make arrangements for their accommodations at our "slice of Paradise." We employ a licensed, local, Hawaiian lady and her family who live across the street from us. She takes care of our condo and whatever else we need. Her children help her and her husband does our repair work. She is not a "realtor" or "salesperson" or "property manager." She is a Kama'aina, born on the Big Island of Hawaii. She receives a 1099-Misc from us each year. She is bonded and insured and a small business person. If this bill passes, not only will I lose my "job" but this remarkable lady will lose her jobs, also. The legislatures do not have the consumer's protection at heart, as it will no longer be affordable for some visitors to come to Hawaii.

I'm getting the feeling that my voice does not factor in Hawaii State Legislature considerations, because I am a "non-resident" and currently not registered to vote. The GET and TAT that I collect and remit is in support for the schools, hospitals, services, and infrastructure that keep Hawaii running. This would be the same that a resident collects and remits. I, along with other non-residents who own property in Hawaii, contribute to a strong and economically viable Hawaii; the same way a resident does, by paying taxes and even increased property taxes.

I think if you are going to have these restrictions on non-residents, then you have to impose the same restrictions on residents. Otherwise, this is discrimination! If you are intent on passing this, you need to put a "cap" on what your "realtors" and "property managers" can earn who will be taking our jobs away from us. There needs to be random audits by the State of these realtors and a system of checks and balances, as well as fines for non-compliance. They will need to carry insurance.

I feel strongly about another consideration and that is our NAFTA agreement with our friends in Canada. 75% of our guests are from Canada, and many own property in Hawaii. If they are treated "less favorably" than Hawaii's own resident investors with respect to all aspects, including management of their properties, that is going against NAFTA Article 1102: National Treatment. If this Bill passes, other states will figure they can impose this "less favorable" treatment on Canadian's who own property in their states. Trade with Canada is huge! Hawaii will be responsible for starting this domino effect.

There is a provision for Tax Compliant people for exemptions in hiring a "realtor" if we have Tax Clearance Proof as well as 1099's. This was not well thought out, as whom will we get these 1099's from? Our guests?

I find it hard to believe that your ultimate goal is to drive tourism out of Hawaii, but that is exactly what you will do! Visitors won't be able to afford to come to Hawaii and they won't get the personal treatment that they get now from people like us. Out of state owners won't be able to hang on to their property financially. The small business people we employ will be forced to work for hourly wages for "property managers."

Where is the "real" data to support the claims that have been presented about non-residents not paying taxes? What is wrong with educating people and enforcing the laws you already have as far as getting Transient Accommodation licenses and General Excise licenses and payment of taxes? Putting new laws on the books when you can't enforce old laws, is not a solution.

Respectfully submitted:
Meredith G. Johnson
Kihei, HI

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Jim Stofer
Organization: Hali Kai 5F/8C
E-mail: jimstofer@comcast.net
Submitted on: 3/27/2012

Comments:

While I do not disagree with the intent of this bill, I am concerned that prefer the language to read "designated local contact" since that is what I now provide to all my guests (my contact lives in the community and is a 1 minute walk away. If I list my designated contact and phone number on my websites, I think prospective customers will call them and they are not as fluent in English as my wife and I are. If we are required to list the designated contact phone number in the units I own and in my documentation that I send to my customers ahead of the stay (and in the units themselves), that should be sufficient.

I have used a management company in the past (who, it was found out later gave free rent to people without our approval and used the property in an unlawful way) and we have yet to find any owner on the island who uses a management company that is satisfied with them.

Management companies do not care for our property as we do, do not go out of their way to make sure that the renters thoroughly enjoy their time in Hawaii as we do and, as a business, simply are in the business to make money no matter what. The items we have had stolen by renters and the damage renters did to our unit when managed by the management company went unreported to us until we arrived to enjoy our piece of paradise in Hawaii (which we do 3-4 times per year).

We have never had these problems since we now control the rentals of our condo (we do have on-island representation) and we know that our renters enjoy their stay so much more and are much more likely to return.

We, like most, do pay the transient and excise taxes monthly. I am sure there are many that do not but they are the minority, not the majority. Why would you punish those of us who are legally abiding by the law? This bill is over-kill and there has to be a better way of policing this.

If this bill is approved, our only recourse would be to not rent our unit any more. I can make the mortgage payments but the \$20,000+ in tax payments for your state will go away. I cannot risk my property for the sake of making a few dollars. If we cannot control who rents it out and who is allowed to stay in it, then that is a "deal-breaker" for us.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Koshu & Vijay Madnani

Organization: Individual

E-mail: kaymadnani@hotmail.com

Submitted on: 3/27/2012

Comments:

We pay GE/TA taxes on a regular basis and support actions to make other owners pay their taxes too. But this bill is not the way to do it.

While we agree with the intent of this bill, we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- We believe that the term of rental agent should be changed to designated local contact.

Thank you

Koshu and Vijay Madnani

Dear Honorable Members of the Hawaii Legislature,

I am submitting this testimony to voice my concern and opposition to House Bill 1706. As a non-resident owner of a single property on the island of Hawai'i, I fear that passage of this bill in its current form will be devastating to I and my wife's endeavor to start up our first small business, and it will be detrimental to the economy of this island, if not the State as a whole. Our dream of purchasing property became reality in 2011, and ultimately we hoped to rent it out ourselves as a small business. After finalizing repairs last month, utilizing mostly local small businesses and contractors, we began the process of researching how to register our business and setup our taxes to be in compliance with the law. During this search we discovered this bill. As the bill currently stands (and with language incorporated from SB 2089), it appears that our upcoming small business will in effect be eliminated, as we will be subject to rent our property through a management company or licensed representative. This will be cost prohibitive, and will ultimately reduce our chances of being successful (i.e. making a profit), let alone breaking even. The only option for maintaining a viable business would be to increase rental rates to absorb the representative costs. However, this scenario would create an unfair advantage to resident owners who could advertise much lower rates than those of non-residents. Beyond the loss of income would be the loss of pride and life experience gained in the operation of one's own business because it will be the management or representative that ultimately controls the day-to-day nature of the business. At the local level there will be impacts resulting from this law as well. Currently, we provide work opportunities for three locally licensed individuals for maintenance and cleaning of the property. There is a strong likelihood that a management company would utilize their own contractors, eliminating income from those three individuals. There appears to be an exemption in the bill to permit owners from having to go through a company or representative; however, it is completely unclear who is eligible or how such an exemption will be acquired by non-residents?

We encourage you to please oppose this bill in its current form, and push for stronger enforcement of the existing laws to bring those outside of compliance back in. Punishing responsible small business owners who truly care about the communities they own properties in, is not the appropriate path forward. Elimination of revenue from local hardworking contractors should never be a side-effect of decent legislation. I do hope you agree, and I thank you for your consideration of my opinions.

Sincerely,

Matt Hubner
Tax ID W98695602-01
<http://www.halehubner.com>
<http://www.vrbo.com/403855>

Honorable Members of the Hawaii Senate:

I am writing to voice my opposition to HB 1706. I am the owner of a home in Princeville Kauai. We bought the property five years ago. The property was somewhat dated so we hired local Hawaiian contractors to renovate the property. We obtained the requisite business license and registered with the Department of Taxation for our tax I.D. We opened a separate bank account so that the funds from our operation would not be co-mingled with our personal accounts. We hired a local cleaning service and a licensed on-island agent and we listed the home for vacation rentals on vrbo.com and Homeaway.com. Since that time, we have had many satisfied vacationers who have rented our home and enjoyed the wonderful aloha spirit of Kauai. We have paid all taxes quarterly and in full.

I have been following the development of SB2089 and the other bills currently in the Hawaii legislature that would require us to hire a licensed real estate professional to manage our property and I am very concerned. I appreciate that the Committee on Commerce and Consumer Protection has heard the hundreds of comments that were received in the last couple of weeks and that several amendments were made to try to address some of the concerns, especially the attempt to exempt owners who have been dutifully abiding by Hawaii law. But I remain concerned about how some of the requirements of the bill would work and I have some questions

One of the requirements would be to provide the Department of Taxation with a tax clearance annually together with a federal tax form 990 to the Real Estate Commission. I have worked in the non-profit world for most of my career and I am very familiar with

the federal Form 990, but I don't understand how that form would be something we could be qualified to file since we are not a non-profit corporation. If we are unable to file a Form 990, would that mean that we are unable to obtain the tax clearance and, therefore, unable to be exempted from the requirements of this law even though we have been paying the taxes as required? I am also wondering if the Real Estate Commission is equipped to be receiving the tax clearance documents for vacation rental properties and if this is really within their intended scope of work.

As I mentioned above, we hired an on-island licensed real estate professional who acts as an agent for my property. He is available to respond to emergency situations, however, he is not involved in the day-to-day operation of our vacation rental. We pay him a monthly retainer and he bills us at an hourly rate if he is called upon to do any additional work. A requirement of the amended bill would be to list his name and contact information on our vacation listing. We provide that information to our guests before they check in. I fail to understand how that would be helpful to have his name listed in the advertisement since he is not involved in the scheduling of and payments for rentals.

I am very sympathetic to the problem that Hawaii has with collecting taxes on vacation rentals. It is not good for any of us if there are owners who are not paying their taxes, but I am not convinced that the scope of the problem and possible solutions have been adequately identified. I also am somewhat surprised that this proposed legislation applies only to non-resident owners. Is there some reason to think that resident owners are paying their taxes more than non-residents? Therefore, I believe that passage of SB2089 is premature and I ask that it be deferred and that the scope of the problem be thoroughly investigated before further action is taken.

Some suggestions that I have for improvements are:

1. Allow for an exemption for vacation rental owners who have been paying their taxes, but make the process clear and reasonable. The current reference to Form 990 makes no sense and should be deleted.

2 Require vacation rental owners to identify the name and contact information for their on-island agent annually in a filing with the State. This could be done with the year-end tax filing.

3. Require realtors to provide a written statement to all potential purchasers of residential real estate that details the requirements for vacation rental properties, even if the potential sale is not anticipated to be in the vacation rental market at the time of the sale. Require the buyers to sign a document at closing acknowledging that they have been advised of these requirements.

4. Provide adequate resources to the Department of Taxation to increase enforcement of current laws. I believe this is probably the most important thing that needs to be done. Clearly if there is a problem currently with collection of taxes, the Department seems to be incapable of enforcing the laws. Without additional resources, I do not see how they would be able to enforce new laws.

Thank you for the opportunity to provide input on this serious issue. It is my hope that a reasonable solution to these issues can be found.

Sincerely,

Linda Silvera

"The greatest good you can do for another is not just share your riches, but to reveal to him, his own."

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Leland
Organization: Individual
E-mail: kazoom@gci.net
Submitted on: 3/25/2012

Comments:
March 25, 2012

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: Opposition to HB1706

Honorable Chair, Vice Chair and Committee Members:

I am writing to you today to express my opposition to HB1706. This bill would require me, as a non-resident owner of a vacation rental property on Maui, to hire a rental agent who would be responsible for the management of my unit.

My understanding of the intent of this and other bills that have been introduced is to create a process whereby Hawaii can be assured that non-resident owners of vacation rentals are paying the required GET and TAT. However, I am unaware of any studies that have been done to determine if, in fact, a non-payment problem exists or, if it does, the extent of the problem and research into appropriate solutions. I own a condo in Maalaea, Maui and I pay all of my taxes on time and in full and other owners who I know do the same.

I am very concerned about the impact the requirement to hire a rental agent will have on the vacation rental market in Hawaii. My goal when I bought the condo was for it to pay for itself and it is doing that, but just barely. If I were required to pay even a 15% commission to a rental agent, I would be taking a loss. My monthly expenses include condo association dues, leasehold rent, utilities, cleaning, taxes, an on-island contact for emergencies and maintenance. I refinanced my home to be able to buy my dream condo in Maui, so while I am not carrying debt on the condo itself, I do have a mortgage payment that must be made. If this bill passes, I will probably be forced to sell and I expect many other owners will find themselves in the same predicament. The condo market in Hawaii will be flooded.

I am not unsympathetic to Hawaii's desire to know that everyone is paying their taxes. I want the same thing. But if after the needed research is done and it is determined that indeed there are vacation rental owners, resident as well as non-resident, who are not paying their taxes, I believe the first step should be for the Department of Taxation to be given the adequate resources to enforce the

existing laws rather than passing new laws that will only serve to punish the law-abiding owners and do irreparable harm to the vacation rental market.

Sincerely,

Marilyn B. Leland
1032 Potlatch Circle
Anchorage, AK 99503
kazoom@gci.net

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie Aitken
Organization: Individual
E-mail: baitken@knightart.com
Submitted on: 3/25/2012

Comments:

Dear Senator Baker, Committee Members, and Members of the House and Senate, I oppose HB1706 H.D.1 on the following grounds: This bill is discriminatory and does not address the purpose of the bill. It purports to enhance consumer protection but only for consumers occupying non- resident owner rental properties. What about resident owner rental properties? Consumers renting these properties would be less protected. Just what are they protected from anyway, proper treatment as customers? Also, how does a rental agent somewhere in the state of Hawaii better protect the consumer than an on island contact person? I am a non- resident owner of a condominium who is registered to collect taxes and do business in the state of Hawaii. I run my business with utmost care for my guests and have an on island contact and staff available for emergencies. My little business is well respected and well cared for by me. My ex real estate rental manager did not do so well. I have a respectable occupancy rate and give a nice check to the Hawaii State Tax Collector. My rental agent property manager found 4 bookings for me for the year. They owned several properties themselves and had a slight conflict of interest with managing mine. They requested all VRBO inquiries be turned over to them for management while I paid for the VRBO site. If the true reason for this bill is tax collection, the owner, the resident and the non- resident alike have the most at stake to make sure the property is rented and well cared for. It's just common sense. The consumer is best protected by the owner of the property that has a vested interest in the property value. A real estate agent somewhere in the state of Hawaii is NOT the person to best protect the consumer or owner. Again I ask protection from what? What is the purpose of this bill? It appears to protect the rental agents of Hawaii, not the consumer who is visiting the state. Again, the owner who is self-managing the property has the most reason to successfully rent the property to happy, tax paying guests. My suggestion for you is to replace the term a Rental Agent in the state of Hawaii simply with "on island contact": that is if your intent is truly to protect the consumer. This bill does not appear to do that. Thank you for allowing my testimony. It should be in time to appear before your committee hearing. I would be there in person but my flight arrives in the afternoon of the 28th. Perhaps I can meet with each of you individually so I can better understand what you are trying to accomplish.

Sincerely,

Bonnie Aitken

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: H Hsin-i Cheng
Organization: Individual
E-mail: wbv210@gmail.com
Submitted on: 3/25/2012

Comments:

This bill (HB 1706) is unconstitutionally discriminatory against non-resident property owners. Requiring me to use a licensed property manager, who typically takes 30 to 40% of the rental revenue, would result in reduced tax revenue for the state of Hawaii. I have the requisite Hawaii tax ID numbers and pay the Transient Accommodations and General Excise tax monthly as required. This will significantly reduce the income that I am able to generate and thus will reduce the amount of taxes that I pay to the state of Hawaii. This lost revenue will be due to the fact that fewer property owners will be able to survive and rent their units as a result of significantly increased expenses due to the property managers. The state of Hawaii stands to lose millions of dollars of Transient Accommodations and General Excise taxes as a result of this bill. A nearly identical bill, Senate Bill 2089 has already been deferred in the House in part because of the illegality of that bill.

For the above reasons, I respectfully request that HB 1706 not be passed

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rev. Ralph G. Schmidt
Organization: Individual
E-mail: ralphschmidt1947@gmail.com
Submitted on: 3/26/2012

Comments:

I am opposed to HB 1706 as it is now written.

The bill is vague and ambiguous. What is a rental agent? What is it mean when it says the rental agent is responsible for the management of the unit? If this requires someone else to manage our business and limits it to non-resident owners, it is unconstitutional, creating subclasses of owners with different laws applying to them that discriminates against one group. My wife and I manage our condo without any problems. We have an on-island contact for emergencies whose number is given to every guest. But we ask guests to try contacting us first if there is a problem. Guess what? Our on-island contact has never been contacted. Not once! Our phone is on 24/7/365. We are already doing everything a "rental agent" could do, with much more personal attention and far more concern that things be done properly. After all, it is our investment and our money that is at risk. A hired agent has no reason to exhibit the concern we have. If you want to change "rental agent" to "on-island emergency contact" or some similar title, and drop the phrase about being responsible for its management, then I would have no problem with this bill. But then it would also be redundant, since the law already requires that. ENFORCE THE CURRENT LAWS. DON'T ADD NEW LAWS THAT DISCRIMINATE, THAT PUNISH LAW-ABIDING OWNERS BECAUSE THE STATE IS FAILING TO ENFORCE THE LAWS ALREADY ON THE BOOKS. HOW CAN THEY ENFORCE NEW LAWS IF THEY CAN'T ENFORCE EXISTING LAWS?

Rev. Ralph G. Schmidt
2807 Cliffwood Lane
Fort Wayne, IN 46825 .

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Margaret Tierney
Organization: Individual
E-mail: flyinfarmer@gmail.com
Submitted on: 3/26/2012

Comments:

I STRONGLY OPPOSE HB 1706 ! I am registered with the state taxing authorities and pay all taxes on my condo rental. I employ a Hawaii resident to watch over my unit, meet and greet my transient guests and then clean the unit. I pay \$995 month in association fees plus Hawaii property taxes, and break even at best on our rental income to cover these fees. Requiring me to use a hired agent would force me to sell this condo, as the additional fees would put me into the red. I will take my vacation time and business to another state if HB 1706 passes !!

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Geoffrey Scotton
Organization: Individual
E-mail: geoff.scotton@frontier.com
Submitted on: 3/26/2012

Comments:

This bill infringes on the right of property owners to directly undertake residential rental contracts as provided for in Hawaii Statute HRS 467-2. The term "rental agent" as used within this bill is entirely ambiguous and suggests that only this person, rather than the property owner, be entitled to perform residential property transactions. Please change the term "rental agent" to "on-island contact" or "local contact", so as to clearly represent this person as being the representative of the owner, but not the rental property manager.

Respectfully
Geoff Scotton

RE: **opposition to HB1706 HD1**

Dear Representative:

What causes me the most stress and anguish is the fear that this bill will force me to lose control of my home and vacation rental business to the required "agent". This isn't just an investment; I take a great deal of pride in my property and the service I provide my guests... more than a property manager ever could. I've compared my guest's feedback on TripAdvisor/FlipKey/VRBO to that of the many property managers that testified against us in committee hearings, saying they provide better service: I have more feedback with higher ratings than them, and I have no issues of the magnitude their guests have complained about (and you should hear the horror stories from owners using property managers). The bottom line for me is: turning over our home and business to these agents is unthinkable. I would sooner stop renting or sell my property before I'd let them take control. **The bottom line for you is: "rentals by owners" provide better service to guests than do property managers, and to destroy our businesses in favor of theirs will be detrimental to the states tourist industry.**

This bill refers to an "agent", but does not define the role of this agent. If the agent is merely an on-island emergency contact, then that is beneficial to the guest, but it is highly inappropriate to advertise this contact on a web page (more below).

If this is an agent that is to handle the transaction, then this bill is clearly illegal under interstate commerce laws: **since there is no obvious need to have the transaction performed in the state other than to subvert interstate commerce law and assure the monetary transaction is performed in the state of Hawai'i, a judge will quickly block execution of this law.**

If the agent is merely a local emergency contact, then it is appropriate to require that information be given to a guest, possibly on our tax forms, but not be advertised elsewhere, for a variety of reasons:

- 1) Should a thief try to gain entry while my guests are on my property, the intruder would only need to see the required posted information to pose as my trusted emergency contact, and readily gain their confidence and entry in order to rob or assault my guests.
- 2) Federal law requires us to keep employee information confidential. Of course, my guests are all given emergency contact numbers... but I don't advertise my employee's names, addresses, and telephone numbers on the Internet. In what other business does an employer have to post the personal contact information of their employees on all their advertising?
- 3) These are supposed to be "emergency numbers"... posting them on the web would expose these employees to inadvertent calls, crank calls, robo-dialing salesmen, and mailing lists... possibly even identity theft.
- 4) There are web sites (three that I know of) that post my property without my permission, for bait-and-switch purposes (I've asked them to stop, but short of trying to cut-through FTC red-tape, I really have no power over them). Am I responsible for those web pages content too? Would I be in violation if they didn't post my emergency contact information? I have no control over what they do.

Please assure that whatever bill passes 1) doesn't require loss of control of my property and business to an agent, and 2) doesn't require advertising of my employees confidential information.

Sincerely,

Chris Worley

The reasoning behind requiring an “on-island agent” to perform rental transactions is clear:

1. Revive the legacy business model requiring an inefficient middleman, which has been supplanted by the Internet which allows the owner and guest to work together directly (although the new internet-based business model makes for more satisfied guests than the legacy property manager business model ever did).
2. Assure that all monetary transactions concerning people in (or to be in) the state occur within the state boundaries, so all applicable taxes can be collected (not just GE and TA, but the transaction “agents” income taxes too).

Therefore, this is really not a “Transient Accommodation” bill; it is an “undo the effect of the internet and attempt to revive outdated business models” combined with “increase tax revenue generation where new business model has decreased tax revenues”.

Given that sales tax losses due to Internet sales dwarf any losses from GE/TA tax losses, be it resolved that all businesses on the Internet must collect sales taxes within the state of Hawai’i when selling to someone within the state. Given the estimated loss in state sales tax collection in the hundreds of millions of dollars by buyers who don't properly claim sales tax on these items, and billions in loss to local “brick-and-mortar” store sales due to Internet on-line tangible good sales (and the decreased income tax collected due to their loss in sales), the following amendment is proposed to both bills:

Any off-island Internet (“on-line”) business selling tangible goods to residents of Hawai’i must perform the monetary transaction through a local, on-island, licensed retail business who will collect the appropriate Hawai’i sales tax. For this service, the local business may charge the Internet business a fee of up to 50% of the purchase price of the goods being sold.

Given that Travel Agencies have lost business to Internet travel services:

Any off-island Internet (“on-line”) business selling air/ocean travel to or from any of the Hawaiian Islands, or sell hotel

accommodations within the islands, must perform the monetary transaction through a local, on-island, licensed travel agent who will collect the appropriate Hawai'i sales tax. For this service, the local travel agency may charge the Internet business a fee of up to 50% of the purchase price of the service being sold.

Given that Pages no longer run messages between elected officials in the capitol, having been supplanted by more efficient email:

Representatives and Senators shall no longer be allowed to communicate government business via email, and shall instead be required to hire Pages to hand-deliver all communications.

... Thereby collecting income taxes from these pages.

The USPS is cutting back on workers and closing rural post-offices due to the increased use of e-mail:

All solicitations over the Internet (both desired and "spam") shall not be allowed to be sent to residents of the state of Hawai'i via the Internet, and shall instead be sent by U.S. Post Office mail.

Changes such as the above should be able to stop the deleterious effects the internet has had on legacy business models and tax collection!

Gail Baker Fairways Homeowner Big Island

Opposition to Bill HB1706 HD1

Aloha Honorable Members of the House Consumer Protection Committee;

I believe that it is unconstitutional and violates our civil rights to own property and not be able to manage it ourselves. HB1706 HD1 the bill that will make it law to require owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the property clearly discriminates against off island owners.

I believe that the term of rental agent should be changed to designated local contact. All condominium townhome projects do not have managing agents or resident managers so this goes back to the owner should provide the renter with a local contact for emergency reasons. This information should be provided to the renters with their Rental Information Packet prior to their arrival.

This whole process of trying to get realtors involved in the rental of off island homeowners is obviously being supported by the legislatures who have been supported by lobbyists. There is no proof that the off island homeowners are the ones not paying their taxes. The real problem is that the DOT has not done a good job of informing owners of what needs to be done to be tax compliant. For once think about all the consequences of passing these bills that keep coming up in different forms. I don't even think I need to reiterate them here as you have heard them over and over.

Respectfully,

Gail Baker

March 25th, 2012

Dear Legislators,

Thank you for the opportunity to provide the testimony.

I oppose HB1706.

It scares me that the bill is purposely vague on the lack of definition for a "rental agent". As I have witnessed on bill HB2078 where the hostility toward off-island owners took for the worse I do not trust the proposed language.

I would support this bill if the term "rental agent" is changed to "local contact person". I cannot support this bill if the term means a "property manager".

I have purchased a vacation rental recently and my goal is to manage it myself. I would hire a house cleaner and a general contractor who I or my renters can reach in the case of an emergency. I wasn't going to hire a property manager because that would cost me anywhere 25% to 40%. By the time I pay off all my bills

- Mortgage payment
- Condo Fee
- Property Tax
- Utilities
- Insurance
- Cleaning Fees
- General repairs
- Advertisements

I simply cannot afford the service of a property manager because that would FOREVER put me in the RED. You would understand this if you were in my situation.

Had I known the State of Hawaii is taking such draconian and unfair measures against out-of-state owners I would have never invested here.

Sincerely,

Lily V

Owner of a Vacation Rental in Maui

Honorable Chair, Vice Chair, and Committee Members,

My husband and I are owners of a condominium at Waipouli Beach Resort on the beautiful island of Kauai. Owning a condominium in Kauai was a twenty year dream for us. Our dream has become a nightmare. I advertise and rent our unit myself because to have a management company do this for us would take at least an additional 30% of our income. I have an on island manager who is a realtor who provides cleaners, supplies, and emergency assistance and repairs. I pay a management/cleaning fee/ taxes to him for this service. I pay all taxes due and, in fact, pay so much in taxes that I am now required to pay them monthly. I pay all of my mortgage payments, utilities, and AOA dues on time. My unit is filled basically all of the time so that I can generate as much income as possible.

With all of my efforts I am stilling suffering a \$30,000 annual loss! Yes, that is an annual loss. I can not afford to lose any more money. We cannot refinance the unit because we owe more than the unit is worth. Many people have lost their condos to foreclosure or short sales. We cannot sell the unit because we would have to add \$150,000 to the sale to get out as well as lose the over \$200,000 that we have invested.

With this dire situation in mind, why in the world do you want to add another burden to honest homeowners who have invested in Hawaii and the people of the Islands? Of course you need to collect taxes due, but you need a much more reasoned approach to this situation.

Mahalo,

Patti Udin

Meera Kohler
12800 Huffman Circle
Anchorage, Alaska 99516
(907) 952-6161
mkohler@avec.org

March 25, 2012

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: Opposition to HB 1706

Honorable Chair, Vice Chair and Committee Members,

Before you today is a bill that purports to treat very differently two classes of private residential property owners: those that reside on the island on which the property is located and those that do not. Discriminating between how these two classes of owners are required to manage their properties is inappropriate, intrusive and probably unconstitutional.

I recognize that a perception exists that many Transient Visitor Rental (TVR) owners are not legally registered and either not collecting appropriate taxes from visitors or are not transmitting those taxes to the State of Hawaii. If indeed this is occurring – and there are no bona fide studies that substantiate the existence or size of the problem – then all TVR owners should be required to adhere to requirements that:

1. They register with the State and obtain a unique identification number as required by existing law.
2. They collect and submit taxes in a timely manner in accordance with existing law.
3. They provide the name of an on-island contact to their guests and the Association manager of the building in which their residence is located, in accordance with existing law. An owner who resides on the island on which their property is located may identify themselves as the on-island contact but must also provide an alternate on-island contact for any period of time during which they are physically absent from that island.

HB 1706 requires that non-resident TVR owners provide the Building Association with the name, address and telephone number of a "rental agent" who is located in the State who is "responsible for the management of the apartment."

This language would appear to wrest management of my unit from me, as an owner, and bestow it upon an agent who has no ownership interest in my property. No doubt you have heard horror stories from those who would gain from such a requirement (the realty community) of guests who have languished due to the absence of the owner or their agent. We have similar horror stories of such "management agencies" who have neglected homes and guests and who have literally driven individual owners like me out of business because of utter neglect and an inability to keep the homes cared for or occupied.

A central issue is that the Department of Taxation is clearly underfunded or understaffed to enforce existing laws. Creating new laws will not alleviate this inadequacy but rather will make matters worse.

Please do not pass this bill out of your committee!

Sincerely,



Meera Kohler
Non-resident Owner and Frequent Visitor

Aloha ko'u hoaloha,

Please do not allow House Bill 1706 to pass. It is bad legislation for at least three reasons:

1. It will damage an efficient and innovative vacation rental market. Beginning in 1991, I used a licensed real estate agent for six years, and found poor service, disgruntled renters who did not return, and very low revenue. Since undertaking management of the rental myself, revenue to the State of Hawai'i and to local service providers has more than doubled. I currently employ an on-island representative who is not a licensed real estate agent. He is simply intelligent, hard working and dedicated to the welfare of the State of Hawai'i. If you insert real estate agents into the system, rentals will become inefficient, tourism will decline, property values will fall and good owners will leave Hawai'i. Please do not destroy this well-developed and motivated source of money for the State.
2. HB 1706 is discriminatory and unconstitutional.
3. When government favors a select group by offering them legal guarantees of a sector of business, ingenuity, efficiency and service decline. Ten years ago the Federal government provided favored status to high risk mortgage providers and poorly regulated debt securitization firms. We will be suffering for years to come from that catastrophe. Please do not make the same mistake.

I have placed the following information on my vacation rental web page and urge everyone else to do the same:

Out of respect for the people of Hawai'i and in support of the cost-efficient and legal private condo rental industry, please do not rent from unauthorized owners. Owners who rent without legal tax registration are depriving Hawai'i of revenue and failing to support our islands. My Hawai'i Tax ID No. is W30380298-01

E ho'omau i ka mo'omeheu a malama ka 'aina. Mahalo.

Bill Dixon
Tax Map Key RP 2-3-9-001-075-0123-000
TAX ID No. W30380298-01
9627 Lakewood Dr.
Windsor, CA 95492
707 837-9306

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: William Dixon
Organization: Individual
E-mail: bill@miralee.com
Submitted on: 3/26/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Karen Raymond
Organization: Individual
E-mail: kraymond@platinum.ca
Submitted on: 3/26/2012

Comments:

I am opposed to this bill for the following reasons.

The intent of this, and all the other current transient vacation rental related bills, is to ensure the State is collecting all its TA and GE taxes. If a person is cheating on their taxes now why would they suddenly become compliant with new laws? The laws are in place currently to find and prosecute tax evaders. They need to be enforced!

Proponents of the new amendment to this bill continue to make unfounded claims about a tax loss to the State of Hawaii as a result of non payment of taxes by non-resident owners of property. They fail to cite any study to support such claims and without evidence such testimony should be considered as hearsay.

Residents are just as likely to be cheaters as non residents.

No consideration has been given to the

North American Free Trade Agreement (NAFTA). The current draft of HB 2078 does not apply equally to both Hawaii residents as well as non-residents and will be subject to challenge because it is considered discriminatory against Canadian investors and property owners under NAFTA.

This bill will cause huge damage to Hawaii's tourism industry and all of the local contractors, housekeepers, landscapers etc. who are currently employed by Vacation rental owners.

This bill will not solve the tax compliance issue. It will only harm The Hawaiian economy.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Donald Raymond

Organization: Individual

E-mail: mauibeachhouse@homesbykaren.ca

Submitted on: 3/26/2012

Comments:

Aloha; I am a non-resident condominium owner and I oppose this bill HB1707. I rent my condo to others while I am not using it. This is a large investment for me and am only able to own property in Hawaii by having it as a vacation rental. I am the one who put all the money into the ownership of my condominium and feel that I should not have to turn my property over to a realtor or rental management company to use for their own profit and I get less profit than they do They DID NOT invest a dime into the sagging realstate market yet they want all the benefits. I tottly understand that you want to ensure that all taxes are collected and submitted. I don't feel more legislation to cover legislation that is already in place but not being enforced is the answere. You shouldd be using the tools you already have to catch the cheaters. One solution could be to have a "Report a Tax Cheat" program in place. If a person knows of or hears of a person that is cheating and they annomously report them (similar to how Crime Stopper repoting is done) and if that individual or comany is found guilty the repoting person wouls get a reward from the State. This is a simple and non-intrusive measure. I feel You all need to start looking at others ways of enforcing the laws you already have. By proposing all these bills you are already admitting that because there is legislation in place it does not mean that all will comply. I feel that by introducing more rules against certain groups it could force more people to hide from the Government. Also a a Canadian Citizen I feel your proposed bill is in violation of the North American Free Trade Agreement which was signed by the federal governments of Canada, USA and Mexico. This agreement cover equal treatment of investors in all three contries. If your bills pass I am sure they will be challenged on the grounds of both the US Constitution and NAFTA.

Mahalo for taking my testimony into consideration.

Don Raymond

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jason Cash

Organization: Individual

E-mail: jasonmcash@gmail.com

Submitted on: 3/27/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Brooke & Sandra Boswell

Organization: Individual

E-mail: sandiboswell@gmail.com

Submitted on: 3/26/2012

Comments:

March 25, 2012 Concerns about HB1706HD1 and amendment request Honorable CPN Chairman and members: We consider Hawaii our "second home" having long owned a legal licensed rental here and regularly pay taxes.

We write asking that "on-island contact" replace the word "rental agent" in HB1706 HD-1 and that you equally apply, the uniform local "on-island contact number" to ALL rental owners. Please avoid discrimination against responsible off island owners. Please do not impose the word "rental agent" upon ANY owner. Please also, protect tourists and honest owners from monopolies and the resulting problems (such as conflicts of interest and increased expenses) by removing words like "rental agents".

The issue here is caring properly for island rental guests. Yes, all owners should provide an "on-island" contact number to guest renters, residence managers or AOA offices for cases of need or emergency, but the bill must not reduce tourist options or diminish our owner's right to choose our own contact so that management of own well cared for unit and meeting guest's needs are not compromised. Those rental guests prefer dealing with owners because they get quicker, and usually, more immediate satisfactory results. "Agents" do not necessarily mean better care for renters. Our experience as former renters with an agent was negative.

The word "rental agent" is too narrow. Not only does the term confuse renters, but its effect supplants and limits an owner's selection of contact options to a narrow group. Owner determination about who they work with is a basic right. Please do not assume that replacement of owners with "rental agents" will help tourists or solve a tax avoidance issue. (The state (and county) tax departments have means by which they can determine who owes taxes, which is a separate matter).

In closing, please consider Hawaii's future, its tourists who prefer owner various rental choices and the many fine on-islanders who depend on owner managed rentals and tourism for their livelihood, as well as non-residents (who, like us, consider Hawaii our "second home"). Please vote against bills that tie owner hands or propose removal of an owner's widest possible options in their selection of local "on-island contacts. Please do not eliminate or reduce choices for local "on-island contacts" and employees by using the word "rental agent".

The tourist "marketplace" demands diverse choices in rentals—especially in the current economy. Please support and encourage this productive market by passing correctly worded bills. Please reject proposals that confuse rental tourists, limit their choices, or reduces quality service for them.

You have an ally: Today's internet generation quickly chastises and disciplines irresponsible owners in a way legislators cannot: negligent owners rapidly lose credibility in the web's marketplace when exposed by bad reviews; If those few

careless owners do not change for the better when negative reviews are published two things happen:

1. Questionable owners end up failing. They rapidly lose business, drop out of the rental market or sell because the majority of travelers are savvy people who do their homework when renting. Tourists won't put up with overcharges or neglect by owners (or agents).

2. Web rental sites dump bad owners who receive bad reviews. Most travel sites let bad reviews stand for all to see. Fortunately reviews prove that responsible owners greatly outnumber the bad.

Hawaii receives enormous free positive publicity & millions of dollars from responsible rental owners. Please vote against bills and unfair wording that hurts the rental market, discriminates, or supplants owner involvement and compromises management of their property. Please apply any legislative rule equally to all owners. Thank you for reading our comments. Your proper decisions vitally affect many. We hope our fond connection with Hawaii and the positive care our "family of renters" receive from us will be able to continue for years to come.

Respectfully, Brooke and Sandra Boswell, 4400 Makena Road, Maui, Hawaii 96753
(808-874-1383, 509-782-1125)

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith/Joanne Rathgaber
Organization: Individual
E-mail: rathgaber@shaw.ca
Submitted on: 3/15/2012

Comments:

We are opposed to this bill 1706 as it is redundant and poorly worded.. The companion bill 1707 was deferred because it was unconstitutional and discriminatory and this one is more of the same. We are tax paying owners and abide by current rules and laws. Because of our negative experience with property management in the past, (deceitfulness etc) we prefer to do our own. This Bill will not be good for Hawaii's fragile economy. The laws are there already...please just enforce them.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Caroline Friesen

Organization: Individual

E-mail: cfriesen@roadrunner.com

Submitted on: 3/14/2012

Comments:

We have an onsite caretaker and a professional housekeeper for our unit. Our onsite caretaker has complete authority to handle any matters that relate to the "repairs" needed in our unit at any time. Our housekeeper keeps the place immaculate. We handle this vacation rental through VRBO - keep extremely accurate records - collect and pay all Hawaiian Taxes - and file a non-resident tax return. We do NOT need a realtor to do anything for us. We OPPOSE this Bill and feel that it is a total infringement of our rights as responsible property owners. Please vote NO on this bill.

Caroline Friesen

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ely Dahan
Organization: Individual
E-mail: elydahan@gmail.com
Submitted on: 3/14/2012

Comments:
Aloha, CPN Committee.

I oppose HB 1706 for two simple reasons:

1. It will put me out of business.
2. It will prove the law of unintended consequences by hurting tourists and reduce Hawaii tax revenues.

The bill will add 25%-40% to my costs, and will turn my barely positive cash flow very negative to the point where I will have to sell my properties or default.

Hawaii will suffer because many tax-abiding property owners will "go underground," others will sell out of desperation hurting property values, and new investors will be very discouraged, hurting property values even more. Realtors will be hurt, too, even though they haven't realized it yet.

Tourists will be hurt the most, because an option they use heavily and love, vacation rentals directly through owners, will be legislated out of existence. Some will go somewhere other than Hawaii. Others will come to our islands, but will be at the mercy of property managers with no loyalty to particular properties, just to their own bottom line.

When I switched from using a property manager (one of the good ones) on Maui to doing all of the marketing myself with on-island help to greet guests and maintain my three properties, an interesting thing happened.

Everything got better.

My occupancy rate went from 70% to 95%. My guest ratings went from okay to straight 5-star reviews. My cash flow went from negative to positive. The amount of taxes I paid to Hawaii went up, up, up.

Do you really want to reverse all of this by making me return to the "good 'ol days"?

Do you really want Hawaii to become the poster child for anti-business, anti-competitive, anti-Web, anti-progress, anti-small-business policy that is holding back our nation's economic recovery?

Please vote against this horrible bill (and please investigate who is trying to profit by gaining a monopoly at the expense of our fellow Hawaiian employees, tourists, owners, and taxpayers).

Mahalo.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael Marion
Organization: Individual
E-mail: waikiki-getaway@comcast.net
Submitted on: 3/15/2012

Comments:

Aloha,

I am the owner of a fully licensed, tax paying vacation rental in Waikiki and would like to express my opposition to HB 1706 HD1 in it's current form. As written, the bill is vague and objectionable as it does not define "rental agent". A rental agent could be construed to require the use of a real estate agent as was proposed in SB 2089 and HB 1707. Both of which were deferred. For the same reasons as the 700+ submissions in opposition to the previous two bills, I am also in opposition to this bill.

As an alternative may I suggest the following amendments / clarifications:

1) "Rental agent" to be replaced with "Owner's agent".

2) "Owner's agent" is defined as a person residing on the island in which the rental is located. The exact duties and responsibilities of the owner's agent are to be determined solely between the agent and the owner, except;

a) the name and contact information of the owner's agent must be provided to the managing agent or resident manager of the condominium,

b) any change in the owner's agent or contact information shall be provided to the managing agent or resident manager as soon as practical, and

c) the name and contact information of the owner's agent must be provided to the renter.

This bill amended as above would more than likely receive full support from the property owners, many of whom already provide this information to the condo manager and the renters as a matter of courtesy and to quickly address emergencies.

If the unstated motivation behind the bill is to require off island and out of state condo owners to rent through a real estate agent may I point out that such a provision violates HRS 467-2 which provides:

"467-2 Exceptions. The provisions requiring licensing as a real estate broker or salesperson shall not apply:

(1) To any individual who, as owner of any real estate or acting under power of attorney from the owner, performs any of the acts enumerated in the definitions of real estate broker and real estate salesperson with reference to the real estate;"

In other word, as the owner of our own property we are allowed to perform the duties of a real estate broker with regard to our own property.

In addition this bill is in violation of the Commerce Clause and the holding in Bacchus Imports Ltd. v. Dias, 468 US 263 (1984) which held:

"A cardinal rule of Commerce Clause jurisprudence is that "[n]o State, consistent with the Commerce Clause, may `impose a tax which discriminates against interstate commerce . . . by providing a direct commercial advantage to local business."

As written, this bill imposes restrictions on out-of-state and off-island condo owners that are not equally imposed upon on-island condo owners or any non-condo owners (homeowners).

"A discriminating tax imposed by a State operating to the disadvantage of the products of other States when introduced into the first mentioned State, is, in effect, a regulation in restraint of commerce among the States, and as such is a usurpation of the power conferred by the Constitution upon the Congress of the United States." Quoting from Walling v. Michigan, 116 US 446, 455 (1886)

This bill imposes a competitive disadvantage upon out-of-state and off-island property owners by requiring the use of a real estate agent with the associated costs. This is in violation of the Commerce Clause as the requirement is not equally applied to all in-state owners as well.

If the unstate motivation behind the bill is to collect GE and TAT taxes from the minority of condo owners who are not paying these taxes appropriately, there are already several laws in effect which would resolve that situation given adequate enforcement.

Mahalo for your time,

Michael Marion
www.alohawaikikigetaway.com
TVU permit 90/TVU-0929
Tax ID W30147628-01

Gail Baker Fairways Homeowner Big Island

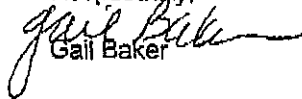
Opposition to Bill SB1706 SD1

Aloha Honorable Members of the House Consumer Protection Committee;

I believe that it is unconstitutional and violates our civil rights to own property and not be able to manage it ourselves. HB1706 SD1 the bill that will make it law to require owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the property clearly discriminates against off island owners.

I believe that the term of rental agent should be changed to designated local contact. All condominium townhome projects do not have managing agents or resident managers so this goes back to the owner should provide the renter with a local contact for emergency reasons. This information should be provided to the renters with their Rental Information Packet prior to their arrival.

Respectfully,


Gail Baker

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Neal Halstead
Organization: Individual
E-mail: nealhalstead@yahoo.ca
Submitted on: 3/17/2012

Comments:
Aloha

Thank you for the opportunity to share my thoughts on this bill with you. First, let me say that I support the intentions of this bill as I do believe that the contact information of my on island representative should be shared with the resident manager - and with my guests. In fact, I actually thought that was already the law. Perhaps it is just the rule at my condominium complex.

The reason I oppose this bill as written is the use of the term "rental agent". The term, being undefined, is open to interpretation and misinterpretation. At its most extreme, it could be defined as being a person or company on the island who manages all aspects of the rental of my unit, including the management of rental receipts.

Earlier iterations of this bill and other similar bills have tried to legislate the use of realtors to manage units and that concept has been vigorously opposed.

I believe the term "rental agent" needs to be clearly defined. Alternately, I propose that the term "rental" be dropped and the term "agent" be used.

In my structure, I handle the sales and guest relations, I have an on-island agent who looks after all aspects of maintenance of my condo and any issues which inevitably arise. We also have a homeowners association at the condo which further assists our guests in their Hawaii experience. And, we have a condominium management company. Both the homeowners association and the condominium manager have the contact information of my on-island representative. There is no need to insert another company into this structure.

I hope I am over-reacting and that the term "rental agent" was an innocent choice of words, however I look to you to ensure that is the case.

Mahalo for your time and attention

Neal Halstead
162 Patrick View SW
Calgary, AB
Canada T3H 3B1

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bruce Ahrendt
Organization: Individual
E-mail: bkdsahre@yahoo.com
Submitted on: 3/17/2012

Comments:

My name is Bruce Ahrendt and we currently live in Salem, Oregon. We purchased a condo to use for a vacation rental in Kona Hawaii. I would like to request that the terms "rental agent" and "rental agent located in the State who is responsible for the management of the unit" is replaced by just "local contact person" or "local owner representative".

When we purchased we had all of the information, cash flow and costs associated with having our condo run by the local rental pool. We realized that having it run through the rental pool only guaranteed a loss on the rental.

We use a local lady that also runs several other rentals to handle all the cleaning, and local contact if/when any issues come up with our condo. I can guarantee you that the cleanliness of our condo exceeds that from the local rental pool. When we purchased the property we needed to replace numerous items that were inadequate for use. When I found the vacuum cleaner that was being used by the rental pools cleaning crew I found the bag to have never been changed. It was rotted and split wide open with the dust just being recirculated into the room. The units run by individual owners carry the pride of the owners with them. They will be maintained. Between me and my brother-in-law we're there at least twice a year to do any major maintenance that may be needed such as replacing air conditioners or doors.

We have always paid our GET and Transient Lodging taxes. Last year alone we paid over \$1300 in GET and \$3000 in TAT just on our one unit. We will also be paying Hawaii state income tax. We paid our local property manager almost \$2500 this last year. I have no problem with requiring an on island contact to handle renter's needs. That need is a given. But there is no reason what so ever to require that it be handled through Licensed Real Estate Agents or Rental Pools. If we are forced into a "Passive" status for our rental and be forced into a negative cash flow for having the rental... there is absolutely no way to keep our unit as a vacation rental.

There is no logical reason why the Management of collecting payment, scheduling, paying taxes, paying bills can't be done anywhere in the world. Virtually everything is done over the internet or phone. Even the State of Hawaii is having the property taxes collected and paid through a company in Washington State.

Rentals done by "Owners" create a whole new arena to encourage tourists to come to Hawaii. Many people do all their travel shopping though Vacation Rental by Owner sites. This increases the flow of tourists to Hawaii. The only winners

from this legislation are the few that hope to steal the rental management and decrease their competition for reservations. This is an over all loser for the State of Hawaii.

My wife is originally from Hawaii and we have plans of moving back, however this kind of action of a few that seem to be an attempt to limit free trade, just because there is an interstate aspect to the management of the property seems to be totally un-American. After all the renters we acquire are also from other states as well as from around the English Speaking world.

I have never had a complaint with my rental. In fact it's been quite the opposite with several rentals coming back to Kona year after year just to spend it in my condo.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat Starkie
Organization: Individual
E-mail: pjswims@aol.com
Submitted on: 3/17/2012

Comments:

I oppose this bill because it is confusing and poorly written. I believe that "rental agent" and "rental agent located in the State who is responsible for the management of the unit" should be replaced by just "local contact person" or "local owner representative". I do not feel that the local contact's information should be posted on the internet as it is an invasion of their privacy, and the owner's already provide this information to guests when they confirm a reservation. It serves no purpose except to confuse travelers when making a reservation. Please oppose this bill as it serves no useful purpose.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Stephan Vossen
Organization: Individual
E-mail: stephanvossen@yahoo.com
Submitted on: 3/16/2012

Comments:

To Whom It May Concern

I own a condo on Maui and would like to express my opposition to Bill HB1706 in its current form.

Many condo HOAs require contact information for a "local owner representative" who acts on behalf of the owner and provides urgent assistance to renters when required. This concept is proven, works well with off-island/out-of-state owners managing their condo remotely and enables the "For rent by owner" experience many Hawaii vacation travellers enjoy.

The bill in its current form introduces "rental agent" and "rental agent who is responsible for the management of the unit" which is not applicable to the "For rent by owner" model. However I could support 1706 if both "rental agent" and "rental agent who is responsible for the management of the unit" was replaced by "local contact person" or "local owner representative".

Best Regards
Stephan Vossen

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sylvia Leutz
Organization: Individual
E-mail: Leutz@Inreach.com
Submitted on: 3/16/2012

Comments:

I am a Hawaii Licensed Real Estate Broker associated with Century 21 All Islands in Princeville, HI. Our office handles real estate sales, but had to discontinue its rental office several years ago to to economic concerns.

I am very concerned with this legislation and similar legislation that would require the employment of Hawaii Rental Agents for all vacation rental properties. As you know, Kauai already has an extensive Vacation Rental Ordinance along with existing state law that requires local management. These laws do not require local rental agents. I see no benefit in this additional requirement. In fact, I can see that this will have a very detrimental effect on the real estate market in our resort area of Princeville as many property owners will be forced to sell due to the increased costs associated with a required local rental agent.

Our market has suffered enough. If tax cheaters are the issue, we would recommend that you hire an enforcement officer and fine those offenders and not punish all property owners of the alledged actions of a few.

Thank you for you consideration.

HB 1706

We are strongly apposed to this bill. Please vote against it.

This is an enforcement issue of existing State of Hawaii laws not a legislative one. Most all of the testimony for this bill I have read is from property management and or real estate companies and is all so twisted to favor their business interest it is almost criminal. It appears they are begging for the state to hand them a windfall of business opportunities rather than address why the issue even exists and how it should be remedied.

Please take a look at how this situation occurred, and start with the Hawaii State Dept. of Taxation (dot). What measures are currently in place by dot to ensure anyone purchasing a home that is vacation rentable gets registered with dot so they know who they are and can begin to collect GE & TA taxes? The answer is none. When we purchased our home, no one from dot contacted us about registration. We did not have to fill any forms out during the escrow process or at closing to ensure we were in fact registered with the state. We had to research who to contact, how to register, where to send the application and tax monies collected which we do.

The State has failed as the existing process identifying ownership doesn't exist and somehow this is the fault of VRBO and its users whether they live on or off the island? To mandate private property management to privately owned companies that absolutely do not have the best reputation for ethical business practices is a huge mistake. This is about collecting taxes NOT creating business opportunities. Ensure the State Dept. of taxation is doing its diligence first.

Any private rental owner that has a factual story to tell about their experiences good or bad with management companies should write to you immediately and let you know what you are contemplating sending us to should you pas this bill. Management companies are not the answer; if they were VRBO would have failed to exist long ago but that is a letter for another day, my focus as everyone's here should be on getting the state to do their job first and not handing it to someone else to do for them.

There are assumptions as to how many people are or are not registered and paying their GE & TA taxes, nobody seems to know, why is that? Where are the statistics of ownership? The State has that information in the form of property tax information.

The goal of this bill is to address GE & TA taxes that are not being paid to the state.

May I suggest this: Put out a 90 day grace period to all vacation rental owners to get registered and send in all taxes due, no questions asked. If they do not, they face a \$10,000 fine and 90 days in jail for tax evasion. If you chose not to pay your federal taxes the IRS will come pay you a visit and change your mind for you, let's have the state do the same thing. After 90 days, give those names to any law firm available to find these people. Allow the law firms keep the fine money as incentive. Result: The state achieves their goal, identifies every owner and gets everyone paying their taxes due.

This will cost the state \$0. The state has created jobs. The state has saved the number of jobs of local citizens that work for the vacation rental people and is responsible for doing something good for a change.

Thank you
Mike Martin

MARSHA VAUGHN, LSCW

2513 San Mateo Street
Richmond, CA 94804
(510) 526-1994
(510) 206-4619 cell

Committee on Commerce and Consumer Protection
Hawaii State Representatives
March 17, 2012

Re: HB-1706 – HD1

Dear Committee Members,

I strongly OPPOSE HB-1706-HD1 for the following reasons, listed below. This bill is, in my opinion, a more vaguely worded version of half of SB2089-SD1, which was deferred for multiple reasons, many of them listed with additional comments below.

1. This bill is discriminatory against non-residents and as such unconstitutional. Much testimony has been submitted related to this as well as legal opinion, which I trust you have read in the testimony submitted for SB2089-SD1. Some legislators have communicated that a bill such as this SHOULD apply to all owners. It makes one wonder if purposefully leaving off resident owners is related to not wanting to stir up a hornet's nest during a possible election year. Personally, I think it is a poorly constructed idea on how to deal with the problem of guests having an on-island contact for emergencies.
2. This bill does NOT protect consumers in any way, despite its supposed intent. Once again, this bill is designed to allow Hawaii rental management companies or real estate agents to take over the management of non-resident transient accommodations businesses. If the intent of the bill is purely to protect consumers the wording could be very easily changed from "...provide contact information of a **rental agent** located in the State who is responsible for the **management of the unit**" to "...provide contact information of an **on-island contact** who is responsible for **handling emergencies or problems.**" A rental agent is responsible for renting and managing all aspects of a business. That is what I do. An on-island contact is responsible for any problems guests had with the unit they rented during their stay. Many of us non-resident owners already have such an on-island contact, as our HOAs require it.
3. This bill, as worded, like SB2089-SD1 provides an unfair advantage to rental management companies who, if they are required to run our businesses for us, will have all the necessary information about our tenants to rent them whatever they want. They have NO obligation to rent my property just because they are managing my property for me. So in effect, passage of this bill would likely put many non-resident owners out of business.

4. There is absolutely NO evidence to prove that local agents will be more timely or more honest in paying TAT or GE, if this is the hidden agenda in this version of this series of bills.
5. There was testimony from 706 people in opposition of SB2089 SD1. A petition against HB1707 secured 750 signatures in two days (not from the same people). Another petition against SB2089 secured 160 signatures in two days. It appears from communication received from some legislators that the individual voice of non-resident owners is not as pertinent to the decision making process as the burden you may be placing upon your own infrastructure. In this vague description of the requirements, who would be responsible for the oversight of this new law?

I thank you for your time and service and pray that you will defer very poorly conceived and vague bill.

Sincerely,

Marsha Vaughn

Condo Owner, Kihei, HI

Proposed Amendment to HB1706-HD1

An amendment that could make this bill acceptable to the majority of tax-compliant owners would be this:

Current Bill:

Requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the unit. Effective January 1, 3000. (HB1706 HD1).

Proposed Amendment:

Every transient accomodation located in the State shall have a local on-island contact who is responsible for handling emergencies and/or problems that tenants face with the rented unit during the duration of their stay. The local on-island contact shall reside on the same island as the transient accomodation. The name and phone number of the local on-island contact for each transient accomodation shall be provided on an annual basis to the Department of Commerce and Consumer Affairs. The local on-island contact shall also be provided on an annual basis to the Property Manager or Resident Manager of the condominium complex.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elizabeth Voigt
Organization: Individual
E-mail: voigtus@yahoo.com
Submitted on: 3/17/2012

Comments:
Honorable representatives,

I urge you to vote NO on HB 1706 for the following reasons:

There is no positive social value to this legislation. It is being promoted by those who will personally benefit from its passing, but society as a whole will be damaged by it. The internet has provided better and lower priced accommodations to travelers than Property Management firms could (because they have fixed costs and profit margins to cover). The lower priced / higher value accommodations increase the tourist industry and boost the local economy by providing more local trade and employment. It is also a fact that Property Management firms do a poorer job in managing the properties they are entrusted with than do the owners, because they do not own a personal interest in the properties they manage. They rent out the properties less frequently and they incur higher costs for the bookings they secure, due to damage, loss and theft. There have even been proven cases of employees using properties they manage for their personal entertainment. Further, the market will sort out owners who are not providing good service via negative internet feedback and lack of referral and repeat customers.

This legislation, and others like it, would be like legislating that Google and Wikipedia should be banned because they hurt the Encyclopedia industry. Well, guess what, most households these days do not own an Encyclopedia. Why? Because they were expensive, they were out of date the minute they were published and because now people can get the information they need instantly from the internet when they need it. Is this a bad thing? I am certain that as members of the legislature you all find the internet resources such as Google and Wikipedia incredibly useful, I as do the rest of us. Well, travelers find the Vacation Rental By Owner trade, that has flourished since the introduction of the internet, similarly useful. Like the Encyclopedia publishers, Property Managers need to evolve to the new market realities brought on by the present business world, which includes the internet. They need to market their services to customers who do not want to manage their own bookings and the maintenance and care of their properties. This is a higher end of the market that does exist and will remain. By excelling in providing superior service to this clientele, I am certain that good Property Management firms will continue to grow and prosper. However, those of us who want to cut costs by doing our own marketing and bookings should not be hampered from doing so by introduction of barriers to entry to the tourist trade that this proposed legislation, and others like it, propose to create, particularly if there is no clear benefit to society in general as a result of the legislation.

In summary, this legislation:

- Provides no positive social value

- Adds unnecessary bureaucratic regulation
 - Increases the cost of tourist accommodations in Hawaii
 - Depresses the tourism industry on the islands
 - Will result in lower State tax revenue via by having a depressing impact on the tourist trade
 - Provides an unfair competitive advantage to a very small sector of the Hawaii Tourist trade
 - Provides a lower level of service and overall value to the tourists
- Thank you for considering my opinion in this matter.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Kevin Hendra

Organization: Individual

E-mail: khendra@cox.net

Submitted on: 3/27/2012

Comments:

While I agree with the intent of this bill, I feel it leaves open a few questions.

- Concern that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- I believe that the term of rental agent should be changed to designated local contact.

We have always had an on island contact as currently required, and have always provided that information to our tenants when they arrive in the room.

As an aside, some of the earlier testimony posted here is off topic as it relates to tax revenues and should be removed. This bill is plainly not about tax revenues, and the posting such off topic comments is misleading to some that might be trying to square those comments with the language in this bill.

Thanks,

Kevin Hendra

Nina Nychyporuk and Richard Waugh
2780 Cultus Court
Coquitlam, BC Canada V3C 5A8

Members of the House Committee on Commerce and Consumer Protection

Re: OPPOSE House Bill 1706 HD1

Honorable Committee Members,

Thank you for the opportunity to provide respond to House Bill 1706 HD1. Our names are Richard Waugh and Nina Nychyporuk. We own a vacation property on the Big Island.

We **oppose** House Bill 1706 SD1 on the basis that the Bill represents unconstitutional discrimination against non-resident property owners because it deliberately does not require resident owners to provide the managing agent or resident manager of the property with contact information of a rental agent located in the State who is responsible for the management of the unit.

We believe this Bill serves a purpose and that purpose is to transfer wealth from non-resident owners of transient accommodations to resident property managers and licensed agents.

HB 1706 HD1 and other recent similar Bills progressing the Legislature may also be in violation of the North American Free Trade Agreement (NAFTA) as non-resident owners who are Canadian investors in Hawaii will receive treatment less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors. More specifically, NAFTA Article 1102 states:

National Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:

- (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
- (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

HB 1706 HD1 also implies that non-resident owners of transient accommodations must employ a rental agent. Therefore, this Bill violates the most basic and fundamental right to own and dispose of privately-held property, including the right to use, sell, rent as we see fit, mortgage, transfer, exchange or destroy, or to exclude others from doing these things to our property. This aspect of the Bill is discriminatory against non-resident owners and represents a violation of non-resident owner's fundamental property rights to exclude others from the process of renting their property. This Bill may also revoke the right of free choice for non-resident property owners and visitors.

We respectively ask what studies or evidence have been presented to the Committee to support the assertion that only local real estate brokers or salespersons licensed under chapter 467 are better able to respond to guests during emergencies, natural disasters or any other issues? Not all real estate brokers or salespersons have staff on call 24 hours a day. Independent owner-operators, on the other hand, are on call 24 hours a day. A guest can send us an email or phone us any time of the day, 7 days a week. Moreover, consumer protection measures already exists within other legislative and regulatory bodies such as the Department of Commerce and Consumer Affairs.

The feedback we have received from our on island agent is that guests tend to contact the agent to ask frivolous questions at all hours (e.g., what restaurant would they recommend, what is the phone number for a taxi, who does pizza delivery, where is the best place to buy a Hawaiian shirt, what is the weather forecast for tomorrow, etc.). We also believe that the requirement to provide a local agent's contact information in our advertising may only serve to confuse the travel with respect to whom they should contact to make an inquiry or booking.

Finally, we view this Bill as nothing more than an attempt to pave the way for real estate brokers and salespersons licensed under chapter 467 to profit from the significant investments of non-resident owners. Real estate brokers and salespersons have no vested interest in the property of non-resident owners. They have made no capital investment and are not exposed to any risk of loss. **This Bill is nothing more than one of the steps in the process to transfer wealth from non-resident owners to real estate brokers and salespersons, under the guise of consumer protection, by forcing non-resident owners to employ real estate brokers and salespersons to carry out a function of their business.**

We kindly ask you not to pass this Bill.

Sincerely,
Nina Nychyporuk and Richard Waugh
Non-Resident Owner-Operators and Visitors

Ingrid Bossen

March 11 2012

To Whom It May Concern

I own a condo on Maui and would like to express my opposition to Bill HB1706 in its current form.

Many condo HOAs require contact information for a "local owner representative" who acts on behalf of the owner and provides urgent assistance to renters when required. This concept is proven, works well with off-island/out-of-state owners managing their condo remotely and enables the For rent by owner experience so many Hawaii vacation travelers enjoy.

The bill in its current form introduces "rental agent" and "rental agent who is responsible for the management of the unit" which is not applicable to the For rent by owner model. If both "rental agent" and "rental agent who is responsible for the management of the unit" was replaced by "local contact person" or "local owner representative" I could support bill 1706.

Mahalo

Ingrid Bossen

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathy Sheehan
Organization: Individual
E-mail: sheehan.kathyharnett@gmail.com
Submitted on: 3/18/2012

Comments:

Aloha Senator Baker and Committee Members,

As an out-of-state owner of condo property on Maui, I oppose this bill. Let me explain.

Yes, it makes sense for out-of-state owners who rent out their properties to provide their resident managers with the name and telephone number of someone who resides locally so that IF the resident manager becomes aware of a problem related to the condo, he or she knows that he can either call the local person or the owner directly.

No, it does not make sense to pass this bill as it is currently worded. The problem is the wording and the presence of what appears to be a thinly disguised "hidden agenda." The bill specifically states that the contact information provided should be for "a rental agent located in the State who is responsible for the management of the unit." This wording could be construed to mean that individual out-of-state and off-island owners are thus required to give up their statutory and constitutionally protected rights to renting and managing their own condos and have to employ a particular, although as yet unspecified, kind of "rental agent" to "manage" their rental.

This bill is unnecessary. Condo associations can require their out-of-state and off-island owners to provide the name of a local representative of the owner who will handle condo issues in the event that the owner cannot be reached. I do this already and my system works flawlessly. Otherwise, it is unlikely I would have such a stream of repeat guests.

This bill is also discriminatory and, since it fails to provide any convincing evidence as to why out-of-state or off-island residents might need to employ a "rental agent," it is almost certainly illegal. As the Attorney General of the State of Hawaii observed in relation to a similar, now deferred bill (SB2089), the Commerce Clause, the Equal Protection Clause and the Privileges and Immunities clauses of the United States Constitution all prohibit such explicit discrimination in the absence of evidence."

I am really puzzled by the wave of bills trying to insert local "rental agents" into the direct rent-by-owner business in Hawaii. I myself have more than 25 years experience using rental agents in Hawaii and almost 5 years experience renting directly. This experience gives me a unique perspective. Rental agents make sense if you need or just want to delegate the management of your condo. The downside, however, is that even in the best of cases, they charge guests more,

often overbook sending guests to other properties they don't want, and cannot add that "personal touch" that a growing sector of Hawaii tourists now desire (just browse TripAdvisor and similar such websites for more information on tourist preferences). Moreover, they are less likely to screen guests and the owner's property is more likely to be damaged requiring costly replacements and repairs. (I myself had the unfortunate experience of having my condo wrecked some years ago by a party of cocaine using guests when I still employed a rental agent. Excrement was smeared on sheets and towels, two marble chairs were irreparably broken after being thrown against a wall and the carpet was so stained that it had to be replaced. This was an extreme case, but it may need to be mentioned in the context of why some of us prefer to rent directly without middlemen.)

The direct-rent vacation business is a large, growing and attractive market for Hawaii, but bills like this one send out so many negative vibes and signals. First, they signal that the State doesn't want tourists who prefer the "personal touch" of renting directly and believes it can corral them back, against their express wishes, to rental agents and/or property managers. Second they signal that out-of-state investors should think twice about investing in Hawaii property because they may not be allowed to manage and control their property and could be forced to use local "rental agents." Third, and perhaps most importantly they signal that Hawaii is a place where the US Constitution and equal protection and even NAFTA do not apply. These considerations should not be minimized.

There are repercussions in the wave of bills, including this seemingly innocuous one, for Hawaii's image. You can't trample on individual rights, as this bill and its companions appear to do, and expect that Hawaii's image as the Aloha State, a state that has long been known to be fair and friendly, to be untarnished.

Please defer this bill or at the minimum change the wording so that it reads "Requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of an owner-appointed-representative located in the State."

I appreciate your consideration of my comments.

Mahalo,

Kathy Sheehan

Associate Professor Emeritus
University of South Florida
& Hawaii condo owner

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: jean morrissey

Organization: Individual

E-mail: jeanmorri@comcast.net

Submitted on: 3/18/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim and Sue Keithahn

Organization: Going Maui Vacation Rentals

E-mail: GoingMaui@aol.com

Submitted on: 3/18/2012

Comments:

As owners of rental property on Maui, we OPPOSE HB1706, as written, for 2 reasons.

1. We oppose the use of the term "rental agent" since we currently are only required to have an on-island agent who is responsible for our property, not necessarily a rental agent. This bill would be inconsistent with existing statutes.
2. It discriminates between resident owners and nonresident owners. The resident manager should have on-island contact information for a responsible party for every owner who rents out their condo on either a long-term or short-term basis.

If the above-mentioned changes were to be made to this bill, we would find this bill acceptable.

Statement in Opposition of HB1706

The intent of this testimony is to express my opposition to HB1706. I feel it is unfair and unlawful to discriminate against off-island property owners by requiring them to hire a property management company to handle their vacation rental properties.

If the pretense of this bill is for the collection of GET and TAT taxes, this in no way solves the problem of delinquent payment. There is no evidence to support the claim that all property management companies will calculate and pay the taxes due. If the goal is to collect taxes, the state is responsible for finding out who is delinquent and pursuing those parties to recover the monies due. There should be a process in place for tracking and auditing these taxes regardless of whether or not there is a 3rd party managing the property. I have yet to see solid evidence that supports the notion that resident rental owners are paying the taxes more diligently than off-island owners.

There is a repeated effort on the part of the management companies supporting this bill to trash the internet and VRBO and any other tool that has assisted the owners in self-managing their properties. I can see that they are frustrated and feel they are losing revenue, but that is business, not a matter for the state to mitigate. And to be honest, the success of VRBO and other such tools is due a general mistrust of the management companies. For owners, it is a very uncomfortable feeling to worry that management companies will rent your unit and pocket the money, neglect to pay the proper taxes, or let their buddies stay for free.

Owning a property in the beautiful state of Hawaii has been my dream for many years. Recently, I was able to purchase a small property and I rent it when I am not on the island to help off-set the expenses. As a vacation rental owner, I pay my taxes and hire local residents to clean, repair and maintain my property. I compensate them fairly and treat them with respect. I have a local contact on the island in case of emergency. I trust these people and would be very sad to have to fire them and hire a management company.

In closing, please consider that I and many other off-island owners work diligently to provide customers with a positive vacation rental experience, which supports Hawaii tourism. The state of Hawaii will gain nothing by taking away my right to manage this property.

Sincerely,
Colleen Jergens

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sally and Jack Nisbet

Organization: Individual

E-mail: Sallynisbet@aol.com

Submitted on: 3/18/2012

Comments:

This bill applies to non-residents only and requires contact information for the "rental agent"; Current statutes require only an on-island "agent";, so specifying "rental agent"; contradicts existing statutes. This bill might be acceptable if it is made to apply to all owners who do not reside in the building and if the "rental agent"; is changed to "agent";

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Jim Stofer

Organization: Individual

E-mail: jimstofer@comcast.net

Submitted on: 3/18/2012

Comments:

While I do not disagree with the intent of this bill, I would prefer the language to read "designated local contact" since that is what I now provide to all my guests (my contact lives in the community and is a 1 minute walk away. If I list my designated contact and phone number on my websites, I think prospective customers will call them and they are not as fluent in English as my wife and I are. If we are required to list the designated contact phone number in the units I own and in my documentation that I send to my customers ahead of the stay (and in the units themselves), that should be sufficient.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Claudia Snyder

Organization: Individual

E-mail: cocacola@diveboat.net

Submitted on: 3/18/2012

Comments:

Aloha honorable committee

I agree that a local contact is needed, and suggest that the "local contact" be a person designated by the owner to handle any situation that may require attention. This could be a Housekeeper, or Maintenance Person, but not necessarily a "rental agent".

The term "rental agent" could be interpreted as barring an owner from renting his own property.

I agree with the concept of a "Local Contact" but disagree with the term "rental agent". Thank You Claudia Snyder

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Bosworth
Organization: Individual
E-mail: DavidDLB13310@aol.com
Submitted on: 3/18/2012

Comments:

To require off-island condo owners to use a rental agent, but not require it of on-island owners is highly discriminatory. Our on island contact lives close to our condo, and can quickly respond to any call from our guest. An off island owner may live in Kihei and their rental may be in Kapalua. Their guest would not begin to get the same service ours does. Please do not require a licensed rental agent. It is easy enough for out front desk to give the guest the name of our contact, however it is highly unlikely they would be asked to do so, since we provided it to the guest before they arrive, is posted in the condo, and is in the guest book in the unit. David Bosworth, Our Maui Ocean View.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathie West
Organization: Individual
E-mail: konacondo@att.net
Submitted on: 3/18/2012

Comments:

Aloha,

I am opposed to Bill SB1706 SD1

We agree with the intent of this bill but we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- We believe that the term on rental agent should be changed to designated local contact.

This is a concern for many reasons. The tourism industry NEEDS to have multiple forms of income. The owner based condo business is thriving and is providing huge amounts of revenue through room income taxes, restaurants, stores, and other subsidiary businesses. Vacationers want to deal with owners direct, thus why the business is thriving. So, we are concerned that the owner will be REQUIRED to use a licensed real estate professional or rental agent, taking away our rights as property owners.

Please, safeguard the Hawaiian tourism trade by voting this down.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert Rubin MD
Organization: Individual
E-mail: rmalibu@charter.net
Submitted on: 3/18/2012

Comments:

I agree with the intent of this bill but i feel it leaves with a few questions.

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- I believe that the term on rental agent should be changed to designated local contact.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Barbara Yaley
Organization: Individual
E-mail: barbara@yaley.org
Submitted on: 3/18/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Andrea Butter
Organization: Individual
E-mail: aaquitaine@yahoo.com
Submitted on: 3/18/2012

Comments:

The bill should require a contact person

1) who is located not just in the state, but on the same island, and within close enough vicinity so the contact person can come to the unit on short notice
2) that contact person should not have to be "a rental agent" who is "responsible for the management of the unit." If the legislature forces owners to hire rental agents, there will be large negative unintended consequences for the tourism industry as well as for the real estate market. Rental managers routinely charge 25-40% of the rent for their services. The income from vacation rentals is generally not large enough to sustain this additional cost. Therefore owners will have to either sell the units - depressing the real estate market - or pass on the increased costs to tourists through higher rental prices. However, the visitors who chose to stay in private vacation rentals do this for the most part because of the cost savings. These visitors have plenty of alternatives to Hawaii for vacations, all destinations with lower cost vacation rentals managed by their owners.

To Whom It May Concern

I'm writing to oppose bill 1706 SD1. I own three condos in Maui which my husband and I bought over 35 years ago. We worked very hard to pay for them over the years and have faithfully paid the General Tax as well as the Transient Tax in later years on every booking that we attained. Since the downturn in the economy it has been much more difficult to rent our units and we have just been able to keep afloat in the last few years.

If this bill were to pass it would be a financial disaster for most owners. The cost of paying a Realtor 25% or more would be horrendous and I myself (my husband passed away one year ago) would not be able to keep these condos as the financial burden would be too great.

Also, if this bill were to pass, owners would obviously have to increase the rates on the rentals in order to pay a Realtor and that would be disastrous as it would make it even more difficult to attain bookings which I'm sure would cause many owners to sell their units.

I was in Mexico recently and was amazed at the low costs there and I believe that if this bill were to pass and condo rates go up that many a person thinking of holidaying in Hawaii will instead go to other destinations such as Mexico for their sun and relaxation.

Sincerely,

Ingrid O'Connor,
3868 Winlake Crescent,
Burnaby, B.C.
V5A 2G5,
Canada
Owner of
Kauhale Makai #523, #307
& #226 in Hale Kamaole

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Allen Gray

Organization: Individual

E-mail: Allenstephengray@gmail.com

Submitted on: 3/18/2012

Comments:

My wife and I live on the mainland, but spend several months a year at our condo in Maui. We pay a friend living on the mainland, who also has a Maui condo, to handle the rentals, and we pay an on-island representative to handle all issues regarding the condo. The system is affordable for us, as we are retired, and has served all of our renters over the years well.

I am concerned the bills now under consideration will not be affordable and will force us to sell our condo. Thank you. Allen Gray

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Peters

Organization: Individual

E-mail: kenp@bigislandhost.net

Submitted on: 3/18/2012

Comments:

Aloha Honorable Committee Members

I would support this bill if it were changed to clarify that a LOCAL CONTACT be provided, instead of a "Rental Agent" which is ambiguous and could imply that the "rental agent" must be someone other than the owner. I believe many owners act as the "Rental Agent" and suspect that most if not all of them supply a "Local Contact" in case of any emergency or repair situations arise. Also, there are a number of instances where more than one entity could act as the "Rental Agent" as referrals may originate from more than one source.

Thank you for the consideration and hopefully you can amend the bill to reflect LOCAL CONTACT instead of RENTAL AGENT.

Mahalo

Ken Peters

Dear Committee Chair Robert N. Herkes and the Committee on Consumer Protection and Commerce,

We are confused about the intention of HB 1706. In part it adds a new term "rental agent" to Chapter 1 Sections 514A and 514B where that term is not defined. Having followed SB 2089 and HB 1707, I can imagine that "rental agent" would mean that I was required to have someone handle the rental of my condominium (my own personal property) which we have significant issues with. We can also imagine that the intent would be to somehow better collect the TA and GE taxes. We already provide our managing agent with our On Island contact on a yearly basis, which we believe is required by Hawaii law, so we are not sure why there is a need for the HB 1706 bill.

Let us first say that we understand the need for the State of Hawaii to collect the taxes that it is owed. However requiring businesses that do pay the GE and TA taxes, and file tax returns with the state of Hawaii to use a "rental agent" is not the right way to solve the problem.

- 1) On August 1, 2010 we purchased a condominium on the Big Island that we use as a second home (where we plan to retire to) and vacation rental. We have created a very successful and legitimate business. Originally when we started our business we applied for and received a General Excise Tax License and Transient Accommodations Tax Certificate of Registration from the state of Hawaii. We pay our Transient Accommodations and General Excise Tax monthly (we have never paid late) and we have completed the Hawaii State Tax Return for 2010 and will do so for 2011.

Given that we are operating a legitimate business it does seem unjust that the State of Hawaii might determine that we can't manage our own business and that we would have to use a "rental agent". That does not seem like the American Way.

- 2) We are concerned for any legislation that would hamper the housing recovery. From our vantage point we believe this legislation would push more homes/condos into foreclosure. For a person to hire a rental agent, 25% to 40% of the rental income would go to the rental agent. For many people that increased cost would push them into foreclosure. Our complex only has 20 units and one is already in foreclosure. The increase in foreclosures would reduce property values. So would the reduction in potential rental income.

A byproduct of the reduced property values would be the reduced property tax that the State of Hawaii is able to collect.

- 3) We also question the assumption that someone who lives on the Island where their rental property is located is more likely to pay the Transient Accommodations' and General Excise Tax. We are not sure that is the case and the way the current legislation is written seems discriminatory.

- 4) We also want to address the quality of service issue. There seems to be a belief that you will receive far superior service if you have a rental agent to rent from rather than renting from someone who lives off Island. As we noted before we have owned our condo for only a year and half. During that time we have never had a week vacancy. We have great reviews from our guests, return business and lots of referrals. Our complex has a resident manager and we have a fabulous on island contact that we pay to immediately address our guests concerns and to inspect our condo after each guest leaves and new guests arrive. Our complexes managing agent and the resident manager have the contact information for our On Island contact. My husband and I are also available by phone or email for our guests.

There are a number of condos in our complex managed by property management companies/ licensed real estate agent or broker. When we have been staying at our condo we have meet several disgruntled guests who have rented from those companies. Good service is not guaranteed just because you rented your vacation rental from a property management company/ licensed real estate agent or broker/rental agent. As we advertise through web sites we can only afford to have good reviews. One bad review and our business would suffer dramatically. I am proud to say we have only had excellent reviews and they consistently comment on the high quality of the service that they receive and that our accommodations exceeded their expectations.

Given the above it seems to us that there should be a better way to address this problem. In the least, legitimate businesses like ours should be able to have an exclusion from having to use a rental agent. There should be some way for the State of Hawaii to increase the number of businesses that pay the Transient Accommodations and General Excise tax without taking away the right of licensed and tax paying business owners to manage their own properties.

We are partners with you in the Hawaii Tourism business and future permanent Hawaii residents. We want Hawaii to be financially sound and to receive the tax income that it is owed. However we feel strongly that HB 1706 is not the right means to that end.

Thank you for your time and consideration,

Janice Townsend

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cynthia Richardson
Organization: Individual
E-mail: cyntravel@yahoo.com
Submitted on: 3/18/2012

Comments:
Testimony against SB1706

Thank you for the opportunity to testify on this bill and be heard.

It is important that the Property Manager of our condo project know who our on-island agent is. I believe this is already in Regulation, as we have been doing this for years.

But the language that the contact number be of a Rental Agent is confusing. On-island Agent is more useful language.

And -saying that person is responsible for the management of the property may be confusing and imply unintended policy. Like many owners who rent their condos, we manage the rentals. Our on-island agent manages the repairs, the cleaning and any emergencies that may come up. We do not wish to give up the rental-management of our condo. It would be so costly that we would likely have to sell.

Thank you for considering legislation to assure the local Property Manager of the Condo Building is aware on On-Island Contacts.

Cynthia Richardson

Aloha:

We are condo owners in Maui and are opposed to this bill as it is worded. We are opposed to inserting the wording -rental agents – and feel it should be –local contact. We had a very negative experience using property management when we first purchased which is why we chose to do our own...so . we have control of who goes in OUR property and can screen properly.We have had zero problems since we have been managing our unit.

We used to get regular calls from other owners that were on island asking us if we knew there we 6 people in our condo or that someone was sleeping out on the lanai. There was no screening by the property managers.

We leave extensive information for the guests and as well our local contact and phone number posted in more than one place so there are no problems.

We support Hawaii enforcing the laws already in place...do not punish the ones following those laws.

Thank you for listening to current taxpayers.

Keith and Joanne Rathgaber

2387 S. Kihei Road C202

Kihei Hi 96732

In regards to HB 1706

We own a condominium on Maui, which we live in for half of the year, and which financial necessity dictates that we rent out as a vacation rental for the balance of the year. We have all of the appropriate licenses, and diligently pay our GET and TAT taxes. In agreement with the intentions of this bill, we supply all of our renters with the names and contact information of our designated local contacts, in case any issues or emergencies should arise. Our condominium management office also has this information.

Our concern with this bill, as with other recently deferred bills, is that the wording may require us to employ professional rental agencies, with all of their inherent costs and failings; as opposed to reliable individuals such as our local cleaning and maintenance families whom we know and trust.

From our own experience, and the experience of many fellow property owners that we have talked to, forcing an owner to work with a rental agency exposes that owner and his property to numerous risks that he would not otherwise be exposed to. Here is a list from our experience: 1. Keys being passed around allowing unauthorized access to the unit. 2. People staying in the unit that were never reported to the owner. 3. Excessive numbers of occupants allowed to stay in the unit. 4. Insufficient qualifying of potential renters resulting in damage to the unit. 5. Improper accounting to the owner. 6. Poor cleaning of the unit between guests. 7. Poor maintenance of the unit. When an owner is in direct control of his unit, and has direct contact with the guests as well as the cleaning and maintenance people, these problems rarely exist.

In summary, we are not adverse to the idea of supplying our resident manager with the contact information for the local families that care for our unit, and who live nearby and take care of any issues that may arise. However, due to the past experiences of ourselves and others, we are very adverse to anything that would require us to take on the additional costs and exposure of hiring a separate rental agency.

We therefore ask that the wording in this bill be clarified to indicate "a designated local contact", as opposed to "a rental agency".

Thank you for hearing our concerns on this bill.

Sincerely,

John Crews
808-298-4189
P.O. Box 872
Sun Valley, ID. 83353

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Janet Crews
Organization: Individual
E-mail: jjcrews1@msn.com
Submitted on: 3/18/2012

Comments:

Dear Senators,

I would like to strongly oppose this bill SB1706 SD1 being passed.

My husband and I have worked and lived in Maui for 25 years from May to November. Due to economic reasons, we need to work and live on the mainland during the winter months. We pay all our Hawaii taxes, local, state and federal. We finally were able to purchase our own place, a condo in Kihei, several years ago and to make it work economically for us, we must rent our place while we are gone. I applied for my Hawaii business license when we bought our place so that I could be the property manager and do the renting directly with our guests. I have people locally, who care for our place like it was their own, and are at our guests beckand call if they need anything or for any emergency. We also have an onsite manager and fully staffed office that can and has, handled any major emergency, such as the Tsunami, that affects everyone in the complex; including all guests. We supply all phone numbers to our guests in the unit, and in all the rental and check in documents we send to guests. We also supply the onsite office with our contact information as well as our local caretakers contact information, so it is always current with the office.

We worked hard and for many years to buy our own Maui home and we want to be the property managers of our home, so that we can screen who will be using our home while we are not there. I have run a business for many years, I know how to run a small business and I know the responsibility of reporting my business transactions and paying appropriate taxes. Since day one, I have reported all my TAT income and paid my due taxes.

The people that previously owned our unit used a local property management company and the unit was in serious disrepair and unclean. We know this because we saw it first hand when we rented the unit before buying. The unit was very dirty: drapes had hems torn and hanging down, the sheets were worn, and mismatched; beds not made even basically well. The towels were stained and old; (yet the owner claimed he had repeatedly supplied new linens and towels to the property management company). The bathrooms were unclean with moldy tiles and the kitchen was unkempt as well; with ants all over. The carpet was dirty and in disrepair. Simple things like light bulbs out in lamps, doors/windows off their tracks. Screens with holes. Windows you could barely see through from lack of cleaning. Yet they charged huge sums to the property owner and claimed it was well cared for and the guests they booked treated it well. The owner was appalled when we sent him photos of how it looked. We had to do a deep cleaning

(and I am by no means a cleaning nut) and many repairs before we were willing to even move into our wonderful new home.

We did not use our life savings to have to pay others a commission and fees to rent our place to anyone they please, and to any number of people they choose to squeeze into our place. They have no personal interest in our home!!! Giving up these rights to control the care and rental of our property is not just an invasion of our financial and business rights, but of our ability to control the usage of our half time family home.

Please rethink this, it is NOT a good bill and I know many other property owners like us, that this is not just an investment it is our HOME as well.
One last thought: would you turn your home over to a rental management company?

Thank you,
Janet Crews

Dear Senators, I have just been made aware of SB 1706 SD1.

I would like to strongly **oppose** this bill being passed.

My husband and I have worked and lived in Maui for 25 years from May to November. Due to economic reasons, we need to work and live on the mainland during the winter months. We pay all our Hawaii taxes, local, state and federal. We finally were able to purchase our own place, a condo in Kihei, several years ago and to make it work economically for us, we must rent our place while we are gone. I applied for my Hawaii business license when we bought our place so that I could be the property manager and do the renting directly with our guests. I have people locally, who care for our place like it was their own, and are at our guests beckand call if they need anything or for any emergency. We also have an onsite manager and fully staffed office that can and has, handled any major emergency, such as the Tsunami, that affects everyone in the complex; including all guests. We supply all phone numbers to our guests in the unit, and in all the rental and check in documents we send to guests. We also supply the onsite office with our contact information as well as our local caretakers contact information, so it is always current with the office.

We worked hard and for many years to buy our own Maui home and we **want to** be the property managers of our home, so that we can screen who will be using our home while we are not there. I have run a business for many years, I know how to run a small business and I know the responsibility of reporting my business transactions and paying appropriate taxes. Since day one, I have reported all my TAT income and payed my due taxes.

The people that previously owned our unit used a local property management company and the unit was in serious disrepair and unclean. We know this because we saw it first hand when we rented the unit before buying. The unit was very dirty: drapes had hems torn and hanging down, the sheets were worn, and mismatched; beds not made even basically well. The towels were stained and old; (yet the owner claimed he had repeatedly supplied new linens and towels to the property management company). The bathrooms were unclean with moldy tiles and the kitchen was unkempt as well; with ants all over. The carpet was dirty and in disrepair. Simple things like light bulbs out in lamps, doors/windows off their tracks. Screens with holes. Windows you could barely see through from lack of cleaning. Yet they charged huge sums to the property owner and claimed it was well cared for and the guests they booked treated it well. The owner was appalled when we sent him photos of how it looked. We had to do a deep cleaning (and I am by no means a cleaning nut) and many repairs before we were willing to even move into our wonderful new home.

We did not use our life savings to have to pay others a commission and fees to rent our place to anyone they please, and to *any number of people* they choose to squeeze into our place. They have **no personal interest** in our home!!! Giving up these rights to control the care and rental of our property is not just an invasion of our financial and business rights, but of our ability to control the usage of our half time family home.

Please rethink this, it is NOT a good bill and I know many other property owners like us, that this is not just an investment it is our HOME as well.

One last thought: would you turn your home over to a rental management company?

Thank you,
Janet Crews

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Lance Rossington

Organization: Individual

E-mail: lancer1@shaw.ca

Submitted on: 3/18/2012

Comments:

As a Canadian winter tourist, I would not be able to afford the cost of this proposal as it filtered down to my level. I am assured by my mainland rental person that the Hawaiian taxes I pay are submitted to the state gov't. Beyond that what is needed?

Dear Honorable Committee Chair Baker, Vice Chair Taniguchi and Committee Members:

RE: HB1706

Please oppose this bill in its current state. I support the intent, but there needs to be some clarification of the terminology as currently it will only create confusion.

- I would suggest that that the bill be changed to use the term ***on island contact*** rather than agent. I understand the need for having someone local in case of a problem, but as per the testimony you will hear, we all primarily have local contacts available. "Agent" gets into licensing issues.

Thank you for your attention.

Amy Siroky

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Diane Luther

Organization: Individual

E-mail: dianescondo@msn.com

Submitted on: 3/19/2012

Comments:

This bill seems redundant to me. My understanding is there is already law on the books addressing this issue. At least, so I've been told. My complex already requires this information as well as the emergency island contact information.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Pam Mueller

Organization: Individual

E-mail: PammueLLer7@gmail.com

Submitted on: 3/19/2012

Comments:

Please use the term "local contact" so that we owners aren't required to hire a professional rental agent to handle the rental of our property.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Brad Kreller
Organization: Individual
E-mail: kreller2124@aol.com
Submitted on: 3/19/2012

Comments:

We agree with the intent of this bill but we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- We believe that the term on rental agent should be changed to designated local contact.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kevin Hendra
Organization: Individual
E-mail: khendra@cox.net
Submitted on: 3/19/2012

Comments:

I am not sure what this bill accomplishes. A local island contact is already required under the law (in Maui anyways) as far as we know, so not sure why this needs to be listed on a web ad. Our unit has all the local island contact in it for our guests use when they arrive.

Hopefully this bill and HB1706 aren't simply part of the now deferred effort to require nonresidents to utilize expensive on island management companies and realtors to operate their units.

Kevin Hendra

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Roderick Michael Gilbert

Organization: Individual

E-mail: kiddgibert@yahoo.com

Submitted on: 3/19/2012

Comments:

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession. I have an on island girl that manages my condo in my absence and does a wonderful job.

- I believe that the term on rental agent should be changed to designated local contact.

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession. I have an on island girl that manages my condo in my absence and does a wonderful job.
- I believe that the term on rental agent should be changed to designated local contact.

Thank you,

Yvonne Gilbert
owner at Waipouli Beach Resort

March 19, 2012

Honorable Legislative Members,

While I agree with the intent of **HB1706 SD1**, a law requiring owners of residential units who reside on a different island than the unit, or out-of-state, to provide the managing agent or resident manager of the condominium project with contact information of a "rental agent" located in the State who is responsible for the management of the property, I am concerned:

- That the bill may be changed to require the rental agent be a licensed real estate professional.
- Therefore, **I am requesting that the term rental agent be changed to designated local contact.**

Thank you for your time and prompt attention to this important detail that will make the bill supportive to all owners.

Sincerely,
Jane Burroughs
251 Camino al Mar
La Selva Beach CA 95076
831-688-5713

March 19, 2012

Honorable Legislative Members,

While I agree with the intent of **HB1706 SD1**, a law requiring owners of residential units who reside on a different island than the unit, or out-of-state, to provide the managing agent or resident manager of the condominium project with contact information of a "rental agent" located in the State who is responsible for the management of the property, I am concerned:

- That the bill may be changed to require the rental agent be a licensed real estate professional.
- Therefore, **I am requesting that the term rental agent be changed to designated local contact.**

Thank you for your time and prompt attention to this important detail that will make the bill supportive to all owners.

Sincerely,
Dean O. Burroughs
251 Camino al Mar
La Selva Beach CA 95076
831-688-5713

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Judith Philipps

Organization: Individual

E-mail: sunnyd@tctwest.net

Submitted on: 3/19/2012

Comments:

Designated local contact, not licensed real estate professional

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ronald Bridges
Organization:
E-mail: bridgestoparadise@shaw.ca
Submitted on: 3/19/2012

Comments:
Dear Senators:

My name is Ronald Bridges / President of Bridges to Paradise Rentals Inc. and we are a non-resident vacation rental company / owner. As a vacation rental company we provide accommodations for tourists that wish to visit this lovely state.

We OPPOSE HB1706 HD1 as it is currently written. We agree with the intent of this bill but we would like to suggest the wording of the bill be adjusted. The bill states: contact information of a rental agent in the State, should be changed to read: contact information of the designated contact located on island. This would clarify that the contact person does not have to be a real estate broker / salesperson or a management company as rental agent could mean to some and the contact must reside on the same island as the property.

Please read the following as to why we must keep control of our properties and not place them in the hands of strangers from management companies who do not care about our condos or reputation.

We had our property handled by a management company and this is what we experienced. The management company would purchase items and tell us they were required for the condo, when we did an inventory the purchased items were not there. When we questioned the company about the items, we were told they must have been stolen again so we have to purchase more. Later we discovered that the management company would purchase items and place them in other condos they managed. We paid the company to provide a cleaning service and all we did was receive complaints from guests that the condo was filthy. When the cleaners would be sent back in to clean, the management company would bill us again. The company was actually double billing for a single clean. There was a fellow condo owner that had his condo managed by a management company and his condo was never being booked. One day his neighbor called him and said it must be nice that your condo is being booked so much. He called the management company and they stated that the condo was not being rented. The owner went to his condo and there were people inside, he asked them what they were doing in his condo and he was told they had rented it from the management company. The management company was renting the unit and keeping all the proceeds and they were not claiming the taxes. These are the companies that you want us to turn our home and business over too. We do not trust these people due to prior experiences. If your business was miss managed as ours was, I am sure you would have fired them too. This not an isolated case we have discussed this with many owners and all we hear are horror stories.

There are laws in place, we must enforce them and punish the offenders. It does not make sense to punish the condo owners who do abide by all the laws and regulations.

Yours Respectfully
Ronald Bridges / President
Bridges to Paradise Rentals Inc. / Maui
bridgestoparadise@shaw.ca

Comments:

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession. I have an on island girl that manages my condo in my absence and does a wonderful job.
- I believe that the term on rental agent should be changed to designated local contact.

Roderick Michael Gilbert
owner at Waipouli Beach Resort

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lamont Dozier
Organization: Individual
E-mail: the12call@hotmail.com
Submitted on: 3/19/2012

Comments:

I disagree with the Bill that is before us it is vague, ambiguous and unclear and should not be allowed to pass or any other bill that is not germane to the situation.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ely Dahan
Organization: Individual
E-mail: elydahan@gmail.com
Submitted on: 3/19/2012

Comments:

Honorable Committee Members,

I agree with the intent of this bill, but feel it leaves two open questions.

1. I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.
2. I believe that the term on rental agent should be changed to "designated local contact."

Mahalo,

Ely Dahan

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: SL Adams
Organization: Individual
E-mail: maprows@aol.com
Submitted on: 3/19/2012

Comments:

Aloha~

I am writing to OPPOSE Bill SB1706 SD1 which should be stopped immediately!

Once again it "appears" this is yet another bill to try to FORCE owners into management companies by very "clever" verbiage.

This Bill is vague and can easily be altered to reflect the "rental agent" is a licensed real estate management company.

We already have designated contacts on the island WHO MAINTAIN the property and the needs of our friends and guests and THEIR NAMES ARE ALREADY ON FILE WITH THE RESIDENT MANAGER.

I question WHO is behind this Bill as it is similar in nature to the most recent bill attempting to FORCE owners into the grips of management companies.

Please VOTE NO on HB1706 SD1.

Mahalo..
SL Adams

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tim Hailey
Organization: Individual
E-mail: mauihail@gmail.com
Submitted on: 3/19/2012

Comments:

Aloha Senate Committee Members of the Great State of Hawaii,

Mahalo for the opportunity to provide input to you on legislation currently under consideration. I am writing to advise my conditional support for HB1706.

However, as it currently reads I hereby Oppose HB1706 HD1

I am a tax compliant (I have a Hawaii Tax ID and remit GE and TA taxes monthly) non-resident owner of a self-managed vacation rental in a condominium complex . zoned/approved for short-term rentals.

If the purpose of this bill is solely to amend the condominium property regime documents 514A and 514B with a requirement that owners who are renting their units directly without involvement of a 3rd party Property Manager shall keep on record with the resident manager or managing agent of the complex the name and phone number of a local contact who is authorized by the owner to act on the owner's behalf in the event of requirement for immediate local assistance, I find the intention of this bill acceptable.

However, it is not clear to me if that is the intent, and attempts to get clarification from legislators have demonstrated little or no interest to provide clarity to us (non-resident owners of self-managed rentals) prior to the committee review currently scheduled for March 28, 2012.

Notwithstanding the wording of the proposed amendments to 514A and 514B needs to be modified by the legislation in order to be acceptable and legally defensible.

I will present my concerns relative to legally defensibility. Related bills by same author or partner author of the South Kohala/Kona district have been pitched to their constituency indicating their intention to get all Hawaii TVRs into legal compliance of permitting and tax compliance.

However, none of the bills have in their original forms nor their most recent forms actually resemble that intention by which some constituents' support for proposed legislation was sought. Alternatively they have served to and have shown intent to deliberately target and carve out a portion of the rental population, and to artificially create a need of the state of Hawaii to do so, and in spite of requests for identification of need to do so have not responded. While implying evidence in existence, the legislation after request to produce such evidence has failed to reveal, product or share a data driven or factual basis for the need to artificially create the subgroup known as non-resident owners.

The legislature has failed to produce evidence in support of relative tax compliant behaviors differing for any subgroup. The legislature has failed to produce evidence of fiscal need either in terms of revenue or cost (to implement enforcement) that justifies need for creation of subgroups. This is therefore legally as well as ethically indefensible.

However, the strategy to divide and conquer can be viewed politically expedient and has created an "us versus them" base of support for the Senator and the Representatives who are the authors of these bills (HB1706, HB1707, SB2089, SB2078). The "us versus them" categories defy both what is in the interest of the State of Hawaii as it deliberately deprives the state, by virtue of the deliberately constricted scope of the proposed bills, of access to taxes owed by neglecting to include all taxpayers in the related legislations.

The "us versus them" categories propose to by legal means (which are constitutionally challengeable and therefore likely to be ruled actually illegal) to force transfer of financial assets from one group (non-resident owners who self manage) by diminishing our property values (and all Hawaiian's property values) as well as our future annual cash inflows, and transfer, for the benefit of another party, primary of which is 3rd party property managers, our future annual cash flows. The state of Hawaii will not be able to legally show a compelling need by the state to handle the issue of tax compliance in this manner. There exist superior methods by which this can be achieved, and which do not inflict the level of harm on a subgroup without cause, hence no legal standing to carve out a subgroup.

I will move on now to attend to what changes I believe are appropriate to language of HB1706 SD1 such that I would support the bill if amended to HB1706 SD2.

I believe the wording of the proposed amendments submitted by HAR and included in HB1706 SD1 for 514A and 514B should be modified. For both 514A and 514B the following should be changed:

The term "non-resident" should be deleted.

The term "rental agent" should be replaced with "on-island contact".

The phrase "who resides out-of-state or on a different island from that on which the apartment is located and who rents or leases the apartment to a tenant" should be deleted.

The term "address" should be deleted.

The term "annually" should be deleted.

The following sentence should be added. "Owner shall notify resident manager or managing agent of the complex of changes in their on-island contact name or phone number in a timely basis from which time they are aware such change occurs.

The phrase "located in the State" should be deleted (as it is a redundancy to the replacement term of "on-island contact").

The phrase "who is responsible for the management of the apartment" should be deleted and replaced with

"whose duties shall serve to be an emergency point of contact for issues requiring help locally or other duties assigned by the owner of the unit as deemed appropriate to support the rental. If the owner of the residential unit (or apartment) resides on island, that owner may elect to identify his or herself as the on-island contact in their requirement to provide to the managing agent or resident manager the name and telephone number."

In summary, these changes as shown in HB1706 SD2 would then read for 514B as follows:

SS 514B - Owners, on-island contacts. An owner who rents or leases the unit to a tenant shall provide the managing agent or resident manager with the name and telephone number of an on-island contact whose duties shall serve to be an emergency point of contact for issues requiring help locally or other duties assigned by the owner of the unit as deemed appropriate to support the rental. If the owner of the residential unit (or apartment) resides on island, that owner may elect to identify his/herself as the on-island contact in their requirement to provide to the managing agent or resident manager the name and telephone number. Owner shall notify resident manager or managing agent of the complex of changes in their on-island contact name or phone number in a timely basis from which time they are aware such change occurs.

If the above changes are made to the bill I am in support of its passage.

However, if the legislature is also contemplating adding other language relating to additional regulation required by self-managed condominium rentals in complexes approved for short term rentals I hereby advise I am opposed to any new requirements that:

1. Provide different requirements for non-resident and resident owners of condominium properties.
2. Create conditions for Restraint of Trade
3. Create conditions of Monopoly
4. Create a burden on property owners with no compelling need by the state to do so.
5. Require mutual cooperation between owners and County and/or State Departments where the County and/or State Departments are unable to or do not perform their requirements in a timely basis that thereby inhibits or prevents the owner's ability to achieve compliance with the requirements of the law.

Mahalo for your consideration of my inputs on HB1706 SD1.

Tim Hailey

March 19, 2012

Honorable Members of the Consumer Protection Committee

Subj: Bill HB1706 SD1

I generally agree with the intent of this bill, but I have a concern:

1. This bill COULD be changed to reflect the on-island contact be a licensed Real Estate Professional. I would prefer using the term "Designated Local Contact." We use this definition now and it has served us well for many years and without any confusion to our renters.

My company is a strong advocate for Hawaii tourism, enforcing Hawaii's current tax laws and ensuring a great rental experience for our clients; but do not support adding "Property Managers" or "Real Estate Professionals" language into this bill.

Mahalo for considering this important issue regarding this bill.

Respectfully,

Michael Wilde
HKPM. LLC
11375 Pepper Circle
Sandy, Utah 84092

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jerald Dunlap
Organization: Individual
E-mail: jvdunlap@verizon.net
Submitted on: 3/19/2012

Comments:

RE: oppose HB1706 SD1

Instead of this bill, a bill requiring the tax ID number together with the legend "Hawaii requires the payment of taxes on all rentals" to be on the advertising would solve the problem of tax cheats.

Thousands of condominium owners in Hawaii have chosen VRBO to market their rental properties because they gain substantially greater income vs. using a property management firm. They take this extra effort because:

1. They deal directly with the renter, personally promoting the features of the property and thereby yielding greater occupancy.
2. The net rentals are greater because they do not have to pay the 30% - 50% commissions generally paid to a rental manager.
3. The result is that the net income is usually double that from a property management firm.

This substantially greater income enables many of the owners to continue to maintain their homes especially in these difficult economic times.

All of us generally will make economic decisions to better or to just maintain ourselves. This bill will drastically affect the VRBO owner's income and they will respond variously to best defend themselves. Though there is now good tax compliance among them, sadly, some will go underground and pay no taxes while continuing to rent. Some will discontinue renting as the reduced income is not worth the effort. Unfortunately, many will be forced to sell, taking their property off of the rental market. Much of the balance will be affected by the lower occupancy rates of the property management firms which will yield lower tax revenue. And, the cheats will continue to cheat.

I pay my taxes.

Sincerely, Jerald Dunlap

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dennis Garlock

Organization: Individual

E-mail: dvgarlock@pacifier.com

Submitted on: 3/19/2012

Comments:

I own and rent multiple condos in a complex on Maui and I live off island. Requiring only off island owners to provide this information is discriminatory and, in my opinion, unconstitutional. Consider this: Assume 50 per cent of owners in a project are off island and 50 per cent are on island. The project would only have information on half the units.

The rental agent is me. If what is meant by "rental agent" is someone or some entity that is responsible for care of the unit in my absence, then it is already happening. Our AOA requires that ALL owners furnish this data, and the AOA has it on file available to the resident manager and desk. It would make no sense at all to have this information on off-island owners only.

Thank you for the opportunity to comment.

Dennis Garlock

Testimony for HB1706 SDI

We own a vacation rental on Maui and handle the rental and management of the condo ourselves due to the poor financial return and care provided by licensed rental management companies/Realtors. We do not object to providing the General Manager of our condominium project with contact information of our LOCAL CONTACT. In fact, our AOAO requires us to provide this information to them.

However, we are VERY concerned that the Bill may be changed to reflect that the definition of "rental agent" incorporate that the "rental agent" be a licensed Realtor or management company as defined under current Hawaii laws. Our objection to this action was well documented and expressed in the approximately 700 responses received as testimony for SB2089. Also, the term "rental agent" might imply that the individual or company be licensed under current Hawaii laws.

We suggest that the term "rental agent" be replaced with "designated local contact." Additionally, that owners of rental properties be required to furnish the property's managing agent; managing company; or resident/General Manager with the use of each unit in the property (owner occupied; long term rental - rented for six months or longer; or vacation rental under TAT definition) on an annual basis. Also, that they provide their GET/TA license number if applicable. In so doing, the Department of Taxation can create a data base with which to identify those who do not pay their taxes.

The above recommendation will provide the Department of Taxation with a way to identify those who are not paying their taxes. This can help to resolve the issue that all of these TAT bills have raised (either covertly or overtly) without the unintended consequences of reduced revenue to Hawaii from the majority of owners who pay their taxes due to loss of income; lower property values due to making ownership of vacation rental property much less attractive to investors; and visitors choosing a vacation venue that offers more affordable accommodations.

Thank you for your consideration.

Ross & Arlene Jasper
4071 W Harrison Street
Chandler, AZ 85226
jasrbi@aol.com

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ana Murray
Organization: Individual
E-mail: ana@beachhousehawaii.com
Submitted on: 3/19/2012

Comments:

Should the law be signed into law with the requirement of listing a local agent, this would be basis to non-resident . The Supreme Court has previously confirmed that it is illegal to give preferential treatment to local residents over non-residents. Forcing a different set of operating rules on non-residents clearly falls in this category.

This information can cause unwanted guests on the property and burglaries. The tax payers and visitors will be the victims. The tax dodgers will get creative. They will use other means to book without having to use a tax ID number. If you pass this Bill there must be a means to enforce. Has the State got enough money for this task?

If you still feel after listening to ONLY opinions and assumptions that there are millions being lost from tax evaders, please consider giving the tax board enough money to hire researchers to find them. This would be both time and cost effective. This was last completed in 2007 and the majority of vacation rental and bed and breakfast owners were in compliance.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kim & Paul Sanderson

Organization: Individual

E-mail: k-sanderson@shaw.ca

Submitted on: 3/19/2012

Comments:

Many thanks for the opportunity to submit testimony. I have very little feedback on this bill as it stands. However, I'd like to make a suggestion that you change the wording: from "rental agent" to an "on-island contact" - so i guess i "technically oppose it" however it is only a word change i suggest.

We own two condos on Kauai, and there is a live-in resident manager - he isn't a "rental agent", but he is the primary contact on-site (live-in) should anyone have problems. This is in addition to my handyman who is available 24/7 and his contact info is listed inside my condo and on their Welcome Letter. My guests are well aware of the Resident Manager, as its obvious upon entering Alii Kai where the manager lives. I just wouldn't want to create confusion regarding "an agent" - as i find that wording a bit confusing. Many thanks - besides that change in wording I have no other issues with the bill. Kim Sanderson

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: William Watson
Organization: Individual
E-mail: Mahana604@aol.com
Submitted on: 3/19/2012

Comments:

Aloha Senators:

I am in favor of improving the tax collections in Hawaii. However, I am writing in opposition to HB1706 HD1. Although I agree with the intent of the bill, in light of other similar recently submitted bills, it is another attempt by a very small minority of licensed real estate agents in Hawaii to gain complete control over the entire rental industry in Hawaii which they would ultimately destroy and greatly reduce overall taxes collected by Hawaii. They could easily take over the entire industry either now or in the future by making a simple change in wording by deleting "rental agent" and substituting "licensed real estate agent."

This is based on and proven time and again by their past and present performances. I have seen it where licensed agents keep a unit empty while they have their relatives and friends stay in the unit. Other local agents have avoided paying the taxes that they collect, and have just kept them. Entrusting our future to a small group of individuals with such a history is not a direction that Hawaii should take.

Please avoid this potential disaster to our tourist industry by changing the term "rental agent" to "designated local contact" or simply "agent" to avert a potential catastrophe which we all want to avoid.

As a result, I strongly urge you to enforce present laws in collection of taxes for both on-island and off-island owners and to treat all owners equally, no matter where they live.

William Watson, MD
110 Kaanapali Shores Place #604
Lahaina, HI 96761

Aloha Senators:

I am in favor of improving the tax collections in Hawaii. However, I am writing in opposition to HB1706 HD1. Although I agree with the intent of the bill, in light of other similar recently submitted bills, it is another attempt by a very small minority of licensed real estate agents in Hawaii to gain complete control over the entire rental industry in Hawaii which they would ultimately destroy and greatly reduce overall taxes collected by Hawaii. They could easily take over the entire industry either now or in the future by making a simple change in wording by deleting "rental agent" and substituting "**licensed real estate** agent."

This is based on and proven time and again by their past and present performances. I have seen it where licensed agents keep a unit empty while they have their relatives and friends stay in the unit. Other local agents have avoided paying the taxes that they collect, and have just kept them. Entrusting our future to a small group of individuals with such a history is not a direction that Hawaii should take.

Please avoid this potential disaster to our tourist industry by changing the term "rental agent" to "designated local contact" or simply "agent" to avert a potential catastrophe which we all want to avoid.

As a result, I strongly urge you to enforce present laws in collection of taxes for both on-island and off-island owners and to treat all owners equally, no matter where they live.

William Watson, MD
110 Kaanapali Shores Place #604
Lahaina, HI 96761

Please do not pass these bills.

HB2078 AND #1706 SD1)

We have rented our winter home ourselves for 12/years without incident. As part our my rental confirmation email I send, there is always a local resource people. **Namely the cleaning and maintenance service.** They always have access to me via my cell phone. All are, also, posted on the refrigerator in our condo. We pay all our taxes on time.I also have a website. I have done these myself from scratch.

I am very particular who I rent too. I have seen other rental units where there is only a rental company and honestly they could care less who OR how many occupants they rent to as long as they get paid.

Please you will punish the good guys instead of the bad. We are retired and can not afford any more expenses. Our electric bills is killing us.

Respectively submitted

Joan and John C. (Kevin) Sullivan MD

--

Mahalo Nui Loa,

Joan & Kevin

Proprietors: Joan & Kevin Sullivan

Maui Hale Kamaole Condo

2737 South Kihei Road

Kihei, Maui, Hawaii 96753

Check out our website!

<http://www.sullivansonmaui.com>

VRBO

<http://www.vrbo.com/250754>

SullivansonMaui.com Facebook Page

<http://www.facebook.com/pages/SullivansonMaui.com/171895969554970>

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position:

Testifier will be present: No

Submitted by: Rosemary E. Michaels

Organization: Individual

E-mail: remich4206@aol.com

Submitted on: 3/19/2012

Comments:

Comments Opposing Bill SB1706 SD1 Testimonial

This bill is very similar to SB2089 which was deferred!

There are many downsides to this bill not the least of which will be the unintended consequences of loss of livelihood to people presently managing properties and the loss of taxes to the state from properties removed from the market. This bill may serve to benefit a few realtors and salespeople that are presently proposing and supporting the bill. But what will be the eventual cost and negative impact to the present property managers who are hired by the non-resident property owners to oversee their properties?

The intent of this bill is to catch a small percentage of errant property owners who are not paying the appropriate taxes. Why are the non-resident owners being discriminated against? I speculate that there are resident owners that are working under the radar. If this bill is passed, the resident owners will have a distinct advantage over the non-resident owner since the cost of doing business is much less for them. We will not be able to be competitive since we will need to raise our rates to help offset realtor/property manager's fees.

In the time we have been renting our property to vacationing visitors to Hawaii, we have collected and paid over \$17,000 in general and transient taxes to the State of Hawaii. We feel personally insulted that we as a non-resident owner will be forced to hire a middleman over whom we will have little or no control. Our resort had a management company that private owners could **choose** to use if they did not want to handle their own rental unit. This company went bankrupt and did not pay the owners or the taxes that had been collected. The owners had to pay the taxes.

We handle all our own bookings thru VRBO and Homeaway and by word of mouth from people who have stayed at our condo. We send our guests a reservation contract stating the rates, taxes, cleaning fee and cancellation policy. We also send them an information letter which contains information on the condo and resort. Our on-island housekeeper makes sure that the condo is ready for their stay and is readily available if the guest has a question or if something needs to be repaired.

We contact our guests during their stay to make sure if everything is all right. We have many guests that return because their past experience was wonderful. If our guests are celebrating a special occasion such as an anniversary we have a bouquet of tropical flowers along with a personal note from us. We do care and pride ourselves in giving that bit of special attention to our guests.

If this bill is passed, we will have no other recourse than to withdraw our unit from the rental market. The cost to the state from us alone will be the loss of approximately \$4000 per year in tax revenue and one housekeeper with one less client. This bill is blatantly unfair. There are enforcement provisions and fines on the property owner yet there are no limitations or consequences on errant realtors or salespeople. They are free to charge what they please and there are no consequential damages for their non performance of the implied fiduciary duties if they fail to perform.

Please vote no on Bill SB1706 SD1

March 20th, 2012

To Whom It May Concern:

My husband and I are new owners of a 2 bedroom condo in Ekahi Village, Wailea on the Island of Maui. We purchased the unit to spend as much time as possible on the island but with the intent of renting it out privately for the remaining time. It has been a lot of work to establish a business license and learn how to correctly submit TAT and GET monthly. We have a website which attracts qualified renters to our unit and hope to retain them as future guests. Our on island contact (whose information is provided to our renters at the time of full payment) ensures any of their questions or concerns are looked after once they are at our condo. A rental agent would be of no use to us before or after the vacationer's stay at our condo and if their information was on our website would only provide advertising for them. Our island contact is only required on island and would not want to be bothered prior to such time.

I understand your interest in collecting tax for rental transactions but am concerned with the possibility of you passing a law requiring our business license number be posted online as this number is directly connected to our personal information, which would be more likely to be compromised.

I am appalled that some renters do not collect or submit state taxes and feel that the state should be very aggressive in issuing penalties and fines for these individuals which would be a strong incentive for current transgressors to change their ways.

Please do the right thing and go after the non-tax remitters. Why punish those of us who are trying to do the right thing?

Sincerely,

Peggy and Doug Kay
Ekahi 11f
3300 Wailea Alanui Drive, Kihei Maui HI

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandra J Smith
Organization: Individual
E-mail: sjsmith@me.com
Submitted on: 3/20/2012

Comments:

I currently own property at 14-4999 Wai Opae , Pahoia , HI 96778. When we aren't using our home we rent the property through Homeaway and VRBO. We pay all taxes TA and GE taxes. Our proceeds are put directly back into the house by adding an aerobic septic system, new roof and constant maintenance. If you require us to use a property manager our rent will decline we know because we have had a realtor rent our property in the past. This will directly impact tourist dollars and the money we spend in the local economy as well. It is like you are taking a step backwards with vacation rental sites such as VRBO/ HomeAway, managing your rental property is easier than ever. Even when we had a realtor manage our property we often got phone calls because they could not be reached. We have a local caretaker which we give the renters the phone number and post the phone number in our information book at the house. If we have to have a realtor as a contact they don't service the property they use other people who they contact so it is a three step system. Please do not pass this bill you will directly impact your tourist dollars that are so very important to the Hawaiian economy. More and more people are using vacation rental properties, spending money at local businesses from grocery stores to restaurants. If we have to spend 35% on property management fees we will be forced to take our property off the vacation rental market directly impacting the economic growth of Hawaii. We have experienced the best year to date which puts money directly back into the state through taxes and the local businesses.

Comments Opposing Bill SB1706 SD1 Testimonial

This bill is very similar to SB2089 which was deferred!

There are many downsides to this bill not the least of which will be the unintended consequences of loss of livelihood to people presently managing properties and the loss of taxes to the state from properties removed from the market. This bill may serve to benefit a few realtors and salespeople that are presently proposing and supporting the bill. But what will be the eventual cost and negative impact to the present property managers who are hired by the non-resident property owners to oversee their properties?

The intent of this bill is to catch a small percentage of errant property owners who are not paying the appropriate taxes. Why are the non-resident owners being discriminated against? I speculate that there are resident owners that are working under the radar. If this bill is passed, the resident owners will have a distinct advantage over the non-resident owner since the cost of doing business is much less for them. We will not be able to be competitive since we will need to raise our rates to help offset realtor/property manager's fees.

In the time we have been renting our property to vacationing visitors to Hawaii, we have collected and paid over \$17,000 in general and transient taxes to the State of Hawaii. We feel personally insulted that we as a non-resident owner will be forced to hire a middleman over whom we will have little or no control. Our resort had a management company that private owners could **choose** to use if they did not want to handle their own rental unit. This company went bankrupt and did not pay the owners or the taxes that had been collected. The owners had to pay the taxes.

We handle all our own bookings thru VRBO and Homeaway and by word of mouth from people who have stayed at our condo. We send our guests a reservation contract stating the rates, taxes, cleaning fee and cancellation policy. We also send them an information letter which contains information on the condo and resort. Our on-island housekeeper makes sure that the condo is ready for their stay and is readily available if the guest has a question or if something needs to be repaired.

We contact our guests during their stay to make sure if everything is all right. We have many guests that return because their past experience was wonderful. If our guests are celebrating a special occasion such as an anniversary we have a bouquet of tropical flowers along with a personal note from us. We do care and pride ourselves in giving that bit of special attention to our guests.

If this bill is passed, we will have no other recourse than to withdraw our unit from the rental market. The cost to the state from us alone will be the loss of approximately \$4000 per year in tax revenue and one housekeeper with one less client. This bill is blatantly unfair. There are enforcement provisions and fines on the property owner yet there are no limitations or consequences on errant realtors or salespeople. They are free to charge what they please and there are no consequential damages for their non performance of the implied fiduciary duties if they fail to perform.

Please vote no on Bill SB1706 SD1

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carrie Cooney
Organization: Individual
E-mail: ccooney223@gmail.com
Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Liam Cooney
Organization: Individual
E-mail: lcooney@gmwest.com
Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Shauna Buckner
Organization: Individual
E-mail: sbuck315@yahoo.com
Submitted on: 3/20/2012

Comments:

We agree with the intent of this bill but we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- We believe that the term on rental agent should be changed to designated local contact.

Dear Senators:

Thank you for the opportunity to provide input on HB1706 SD1. Bill SB1706 SD1 recently passed the house and is now in the Senate. My name is Bonnie Aitken and my home address is PO Box 290, Clifton, VA. 20124. My business is registered in the state of Hawaii and with the county of Kauai and I am responsible to pay all GET/ TAT taxes in a timely manner. These laws already exist.

Although I am in agreement with the intent of this bill, I am very concerned about the requirement that the out of state owner be required to provide the resident manager of the condominium project with contact information of a rental agent located in the state who is responsible for the management of the property. I am concerned that this bill will be changed so that the rental agent would be mandated to be a licensed real estate professional. I would respectfully request that the term on the rental agent be changed to designated local contact.

I do not want this EVER to be mandated that I must use a licensed real estate agent or professional to manage my property. I did that already with 2 different licensed real estate agents. That is what forced me to become my own rental agent. These so called licensed real estate agents or professionals, highly regarded on island, stole money from me by not paying me some rental fees, did not properly clean my property, or, did not properly screen guests to make sure zoning laws were followed. In one instance, they allowed double the number of guests permitted to occupy my property and they partied and trashed my unit. I imagine the neighbors did not enjoy that! These individuals were my on island licensed real estate professionals. No one has more at stake than the property owner be they resident or non- resident owners for how a property is used.

I want the ability to choose my own island contact and it most likely will not be a licensed real estate agent. I am the managing agent, the owner. I collect and pay the GET/TAT taxes. I always provide the name and number of an emergency contact on island person, someone I trust with my investment, in my welcome Aloha letter to each guest. I am responsible to my customer and I do not delegate this responsibility and do not want forced to do so. This is why I have success as a business and have many HAPPY CUSTOMERS that want to return to Hawaii to vacation. Isn't that the point?

I also give this information to the management of the complex. They know how to contact the emergency local contact person while the management is in the office 9-5. My guests have my emergency contact person's information plus my telephone number and I am always available.

As far as consumer protection is concerned, I have a merchant VISA MC account. If any of my customers were unhappy with my rental, they would initiate a charge back and dispute the charge. I have never in 35 years as a merchant, had a charge back. My reputation matters to me. Also, the websites afford the customers the ability to alert the internet with names of unscrupulous owners. The system is self-policing. Thank you for allowing me to offer my input in opposition to HB2078 HD.

Mahalo,

Bonnie Aitken

Millard and Shirley Blancaflor
26518 Avenida Veronica Mission Viejo, CA 92691
949.586-5312

March 20, 2012

Senators
Consumer Protection Committee
CPNtestimony@capitol.hawaii.gov

RE: Opposing SB1706 SD1 as written

Dear Senators,

We do not object to providing the in-house resort manager information about our local contact. As the bill written, it states that the owners provide this information to a “rental agent” responsible for “managing” our property. We OPPOSE the verbiage of “rental agent” responsible for “managing” our property.

We do not have a “rental agent” who “manages” our condo. My wife and I do our own. We do however have a contract with a local company who maintains, cleans and is responsible for any emergencies or problems that may arise relating to the condo. We have used this company for as long as we have managed our rental unit and have never had any complaints from any of our guests. This company is listed in our rental agreement documents as well as posted inside the condo with contact persons and telephone numbers.

Hopefully you will substitute ***“local contact”*** in lieu of “rental agent” and substitute ***“maintaining”*** in lieu of “managing”.

Mahalo

Millard and Shirley Blancaflor

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ed/Marian Merlic

Organization: Individual

E-mail: marmmer@surewest.net

Submitted on: 3/20/2012

Comments:

1. Applies to non-resident owners only. Predjudicial to non-residents.
2. By specifying "rental agent" contradicts the existing statutes.
3. Publication of GET/TAT number on owner ad can expose owner to fraudulent use by others on the internet copying the ad.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Donald J. Healy
Organization: Individual
E-mail: donhealy@pcmc.com
Submitted on: 3/20/2012

Comments:

OPPOSE

Although we agree with the intent of Bill SB1706 SD1 and support Hawaii tax collection we feel the term "rental agent" should be changed to designated "local contact". We do supply this information to our guests both in our room and prior to our guest visit during the booking stage.

We do not want the bill to be later changed to a "licensed real estate profession" and then have to absorb unaffordable costs to our small business. We do employ on island workers and do pay our taxes on a regular basis. Hawaii is also enjoying revenue from tourists that would not ordinarily have been able to afford a vacation here due to the affordable housing we offer. Hawaii should be enforcing their tax laws already on the books and not be discriminatory towards non-resident owners. We are also tax payers of Hawaii...

Thank you
Don Healy

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Danielle Gall
Organization: Individual
E-mail: danielle.gall@homedepot.com
Submitted on: 3/20/2012

Comments:

Bill SB1706 SD1, which recently passed the House and is now in the Senate. I agree with the intent of this bill but feel it still does not clearly or fairly represent the interest of all property owners, whether resident or non-resident:

- I am concerned that the bill may be changed to reflect the rental agent be a licensed real estate professional.

- I believe that the term rental agent should be changed to designated contact.

- o I do not believe that the legislature should determine who oversees the rental and management of vacation rental properties, properties that are lawfully owned and operated. This decision must be left up to individual property owners. I completely support proper collection and payment of all taxes, but I am opposed to inserting property managers or realtors into the equation. I believe that the use of realtors or management companies does not ensure compliance as there is no guarantee that these individual or companies are themselves in compliance with current tax laws.

At the heart of bill is the core issue of tax compliance through the proper collection and reporting of GET/TAT taxes. I believe that the legislature first needs to validate the claims of under reported taxes with fact based supporting evidence and documentation. Additionally, I believe that education of the tax laws should be a priority for all property owners - resident as well as non-resident owners. The state already has a program in place to identify, collect and enforce tax compliance. Enforcement of the current tax laws should be a priority. Do not penalize lawful owners who properly collect and report GET/TAT taxes by taking away our rights simply because we are non or part time residents.

Mahalo,
Danielle Gall

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Valerie Bluemel

Organization: Individual

E-mail: vjbluemel@comcast.net

Submitted on: 3/20/2012

Comments:

1. This bill is discriminatory against non-residents and as such unconstitutional.
2. If the purpose of this bill is to provide protection for the public/consumer it is misleading and false in its premise.
3. It appears that the ones having the edge in this matter is the rental companies who will be able to monopolize on the renting of the properties against the wishes of non-residents who own the property. This is dishonest and not the intent of the bill.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Keith and Della Halvorson

Organization: Individual

E-mail: KiheiAkahi.Palekaiko@shaw.ca

Submitted on: 3/20/2012

Comments:

1706 SD1, Tourism Committee March 28th 1:15 pm

Dear Senators,

We oppose HB1706 SD1 in its current form.

We are non-resident owners of a vacation rental property in a condominium complex zoned/approved for short-term rentals, who have been diligently paying all our taxes.

It is clear that with the recent introduction of bills HB1706, HB1707, SB2089, SB2078, the goal is to increase tax compliance among the vacation rentals by owner segment, however, there are no recent statistics to support the claim that this is still the case. In addition, we feel that the State of Hawaii has all the tools at its disposal to take care of the problem of non-payment of taxes. We whole-heartedly support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws.

HB1706 SD1 uses the term "rental agent," which is vague and not defined. Possibly the intended term was "LOCAL CONTACT PERSON," or "ON-ISLAND CONTACT." 514B states, "rental agent located in the State who is responsible for the management of the unit," however, this implies the requirement of a property management company that generally charge large fees to "manage" the property, when in fact, we are doing all that work ourselves.

We believe the wording of the proposed amendments submitted by HAR and included in HB1706 SD1 for 514A and 514B should be modified. For both 514A and 514B the following should be changed:

The term "non-resident" should be deleted.

The term "rental agent" should be replaced with "on-island contact".

The phrase "who resides out-of-state or on a different island from that on which the apartment is located and who rents or leases the apartment to a tenant" should be deleted.

The term "address" should be deleted.

The term "annually" should be deleted.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands.

We respectfully request you oppose the passage of HB1706 SD1 in its current form and encourage you to take our recommendations above, particularly the removal of the term "rental agent" and replace with "On-island contact."

Mahalo for considering our testimony,

Keith and Della Halvorson

Keith and Della Halvorson
"Palekaiko" at Kihei Akahi
(our little piece of "Paradise" on Maui!) KiheiAkahi_Palekaiko@shaw.ca
Box 54, Brackendale, BC, V0N 1H0 Home phone: 604-898-4060

1706 SD1, Tourism Committee March 28th 1:15 pm

Dear Senators,

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HB1706 SD1 uses the term "rental agent," which is vague and not defined. Possibly the intended term was "LOCAL CONTACT PERSON", or "ON-ISLAND CONTACT." 514B states, "rental agent located in the State who is responsible for the management of the unit," however, this implies the requirement of a property management company that generally charge large fees to "manage" the property, when in fact, we are doing all that work ourselves.

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- The term "non-resident" should be deleted.
- The term "rental agent" should be replaced with "on-island contact".
- The phrase "who resides out-of-state or on a different island from that on which the apartment is located and who rents or leases the apartment to a tenant " should be deleted.
- The term "address" should be deleted.
- The term "annually" should be deleted.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands.

We respectfully request you oppose the passage of HB1706 SD1 in its current form and encourage you to take our recommendations above, particularly the removal of the term "rental agent."

Mahalo for considering our testimony,

Keith and Della Halvorson

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Samuel Levitz
Organization: Individual
E-mail: sailorsaml@gmail.com
Submitted on: 3/20/2012

Comments:
Oppose bill!

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carolyn Hiatt

Organization: HVROA

E-mail: cmhiatt@gmail.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Charles Warner
Organization: Individual
E-mail: cwarnn@comcast.net
Submitted on: 3/20/2012

Comments:

I oppose because it is ill conceived and creates more problems than it resolves. Since there is no reasonable short term vacation permitting the net effect would be to dramatically reduce the TAT taxes collected for the state.

Time to wake up to economic reality Hawaii! Don't cut our own throat with ridiculous short term rental legislation.

Give us some reasonable permitting legislation and stop screwing around with silly bills like this.

A Laie resident.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kelly La'a
Organization: Individual
E-mail: kellylaa@aol.com
Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Greg McCaul

Organization: Individual

E-mail: silkwoodhi@aol.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: D Markley
Organization: Individual
E-mail: ddivadog@aol.com
Submitted on: 3/20/2012

Comments:

This is testimony regarding 1706 SD1, for the Consumer Protection Committee Meeting, March 28, 1:15 pm

I am a homeowner who owns a 1 bedroom condo in Kihei, HI, which I rent through VRBO because it became too expensive to rent through a property manager. Not only was the property manager charging me 21%, but they also charged registration and advertising fees on top of that. They were not able to rent the condo to capacity, and therefore I could not afford to pay the monthly mortgage and condo fees on the rental income I was receiving from them. I had to take over the management of the rental process myself in order to keep the condo, and I now pay them a reduced fee to serve as local back up for me.

I regularly pay my GET and TAT taxes and am making more money for the state of Hawaii than when the property manager was renting my condo. Here are my concerns about 1706 SD1:

(1) I am concerned that the bill may be changed to mandate that the rental agent be a licensed real estate professional.

(2) I believe that the term 'rental agent' should be changed to 'designated local contact'.

I currently include a local contact number on all of my rental agreements and correspondence with my guests.

I strongly support homeowners paying GET and TAT taxes. I believe that Hawaii should create **reasonable** laws that will not hurt tourism, but will appropriately fine vacation rental owners (both resident and non-resident) who do not comply with the laws, rather than punishing the vast majority of homeowners who pay their taxes and abide by the current laws.

Sincerely,

Patricia Alexander (homeowner)

2777 S. Kihei Rd. B-107

Kihei, HI 96753

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Greg

Organization: Individual

E-mail: vacationhawaii@hawaii.rr.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Reynante Devera

Organization: Individual

E-mail: r.devera7@yahoo.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lorin Yates
Organization: Individual
E-mail: mk_dancer@yahoo.com
Submitted on: 3/20/2012

Comments:
I oppose HB 1706

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kenneth Martin

Organization: Individual

E-mail: martink004@hawaii.rr.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lorin Yates
Organization: Individual
E-mail: mk_dancer@yahoo.com
Submitted on: 3/20/2012

Comments:
I oppose HB 1706

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: marci kunin

Organization: Individual

E-mail: mk_dancer@yahoo.com

Submitted on: 3/20/2012

Comments:

WE OPPOSE HB1706

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Judy Dancer
Organization: Individual
E-mail: jda611@aol.com
Submitted on: 3/20/2012

Comments:

I oppose HB1706...It is bad and dangerous.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gayle Rubino

Organization: Individual

E-mail: gaylerubino@hotmail.com

Submitted on: 3/20/2012

Comments:

I am OPPOSED to this bill.

Opposition to Bill SB1706 SD1

Aloha Honorable Members of the House Consumer Protection Committee;

I believe that it is unconstitutional and violates our civil rights to own property and not be able to manage it ourselves. HB1706 SD1 the bill that will make it law to require owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the property clearly discriminates against off island owners.

I believe that the term of rental agent should be changed to designated local contact. All condominium townhome projects do not have managing agents or resident managers so this goes back to the owner should provide the renter with a local contact for emergency reasons. This information should be provided to the renters with their Rental Information Packet prior to their arrival.

Respectfully,

David Giacomini

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marci Paddock

Organization: Individual

E-mail: marcipaddock@gmail.com

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ingrid O'conner
Organization: Individual
E-mail: ingrid2@shaw.ca
Submitted on: 3/20/2012

Comments:

I'm writing to oppose bill 1706 SD1. I own three condos in Maui which my husband and I bought over 35 years ago. We worked very hard to pay for them over the years and have faithfully paid the General Tax as well as the Transient Tax in later years on every booking that we attained. Since the downturn in the economy it has been much more difficult to rent our units and we have just been able to keep afloat in the last few years.

If this bill were to pass it would be a financial disaster for most owners. The cost of paying a Realtor 25% or more would be horrendous and I myself (my husband passed away one year ago) would not be able to keep these condos as the financial burden would be too great.

Also, if this bill were to pass, owners would obviously have to increase the rates on the rentals in order to pay a Realtor and that would be disastrous as it would make it even more difficult to attain bookings which I'm sure would cause many owners to sell their units.

I was in Mexico recently and was amazed at the low costs there and I believe that if this bill were to pass and condo rates go up that many a person thinking of holidaying in Hawaii will instead go to other destinations such as Mexico for their sun and relaxation.

Sincerely,

Ingrid O'Connor,

3868 Winlake Crescent,

Burnaby, B.C.

V5A 2G5,

Canada

Owner of

Kauhale Makai #523, #307

& #226 in Hale Kamaole

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Thomas Raskowsky

Organization: Individual

E-mail: surfparadise@hawaiintel.net

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: Yes

Submitted by: Kathleen K. Raskowsky

Organization: Individual

E-mail: kittiekr@comcast.net

Submitted on: 3/20/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dixon Smith

Organization: Individual

E-mail: DixonInHawaii@gmail.com

Submitted on: 3/20/2012

Comments:

Not a well thought-out idea. Someone is going to be embarrassed when the dust settles. Too many special agendas in this Bill.

Mahalo in advance.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat Fox
Organization: Individual
E-mail: foxaloha@aol.com
Submitted on: 3/20/2012

Comments:

I oppose this bill which seems to penalize off-island condominium owners.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mike Jackson

Organization: Individual

E-mail: mikejacksonatlarge@gmail.com

Submitted on: 3/20/2012

Comments:

More unneeded, unnecessary regulation. Encourage small businesses--do not discourage them.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Larry Markworth
Organization: Individual
E-mail: lmarkworth@live.com
Submitted on: 3/20/2012

Comments:

The vacation rental cottage industry provides jobs and creates thriving local economies for Hawaii's communities. By requiring a managing agent most transient rental units will be forced to withdraw from the market because of high agent fees thus eliminating valuable business to local economies and tax revenue to the state of Hawaii.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kirk Warren
Organization: Individual
E-mail: Khw1@tmw.com
Submitted on: 3/21/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nancy Garrett
Organization: Individual
E-mail: Nancy@pierpontrc.com
Submitted on: 3/21/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Keahiloa Wong

Organization: Individual

E-mail: info@pono-loa.com

Submitted on: 3/21/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Spencer Garrett

Organization: Individual

E-mail: Wspencergarrett@yahoo.com

Submitted on: 3/21/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Koshu & Vijay Madnani

Organization: Individual

E-mail: kaymadnani@hotmail.com

Submitted on: 3/21/2012

Comments:

We agree with the intent of this bill but we feel it leaves us with a few questions.

- We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

- We believe that the term on rental agent should be changed to designated local contact.

- We Support paying tax - but are opposed to inserting property managers or realtors into the equation who take 40% but don't do a good job like we do, to manage the property.

- We are strong ambassadors for Hawaii and take care of our guests who come and spend and improve the economy Koshu and Vijay Madnani

6836 Leyland Park Drive

San Jose, CA 95120

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tracy
Organization: Individual
E-mail: td33@mac.com
Submitted on: 3/21/2012

Comments:
I oppose this legislation. Please vote no.

Tract

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathy & Vic Bernard
Organization: Individual
E-mail: katherinemb@shaw.ca
Submitted on: 3/21/2012

Comments:
March 21, 2012

SB 1706 - Please consider the following concerns:
We are currently proud owners of our condo unit located in Maui, we are OPPOSED to this bill as worded.
We manage our condo and have had success in doing so under the current laws. Our success is due to management of our unit directly and personally.
The wording in this proposed bill - "rental agent" - should be changed to - "local on-island contact".
The local contact is reviewed with all our customers; it is posted in our unit and clearly understood with resident manager and documented.
We also offer extensive emergency procedures which are outlined in a Emergency Procedure Booklet posted in a conspicuous location.

Vic and Kathy Bernard
Kihei Alii Kai

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ellen Ernisse

Organization: Individual

E-mail: peaceandaloha@hotmail.com

Submitted on: 3/21/2012

Comments:

We are residents of Hawaii, live on Maui and rent two condos on VRBO! Please vote NO on SB1706. We are concerned that this bill will be changed and will require a licensed real estate agent, which we already opposed in SB2089. All that is needed is a local contact, which should appear in all advertisements and rental documents, which we provide. Please vote NO on SB1706! Thank you!

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rick & Jane Hallding
Organization: Individual
E-mail: hallding@telus.net
Submitted on: 3/21/2012

Comments:
March 21, 2012

SB 1706 - Please consider the following concerns:
We are currently proud owners of our condo unit located in Maui, we are OPPOSED to this bill as worded.
We manage our condo and have had success in doing so under the current laws. Our success is due to management of our unit directly and personally.
The wording in this proposed bill - "rental agent" - should be changed to - "local on-island contact".
The local contact is reviewed with all our customers; it is posted in our unit and clearly understood with resident manager and documented.
We also offer extensive emergency procedures which are outlined in a Emergency Procedure Booklet posted in a conspicuous location.

Rick and Jane Hallding
Kihei Alii Kai

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rick & Jane Hallding
Organization: Individual
E-mail: hallding@telus.net
Submitted on: 3/21/2012

Comments:
March 21, 2012

SB 1706 - Please consider the following concerns:

We are currently proud owners of our condo unit located in Maui, we are OPPOSED to this bill as worded.

We manage our condo and have had success in doing so under the current laws. Our success is due to management of our unit directly and personally.

The wording in this proposed bill - "rental agent" - should be changed to - "local on-island contact".

The local contact is reviewed with all our customers; it is posted in our unit and clearly understood with resident manager and documented.

We also offer extensive emergency procedures which are outlined in a Emergency Procedure Booklet posted in a conspicuous location.

Rick and Jane Hallding
Kihei Alii Kai

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: emily lowther

Organization: Individual

E-mail: ehlowther@gmail.com

Submitted on: 3/21/2012

Comments:

HB 1706

I OPPOSE this Bill.

I live on a different island than my vacation rental, but have a very trustworthy person who serves as my housekeeper and is the person I contact if something needs attention; however, I do not expect her to collect fees or taxes from my guests. My guests have both my home phone number and my cell phone and can reach me at any time. If need be, I will contact my on island representative and she will take care of whatever needs attention. I use a sophisticated website that allows me to collect payment, including the taxes. I pay the taxes myself and prefer to work with my tax preparation provider. It is not necessary for a realtor to perform this task!

I have used a realtor in the past with a long term rental and was not satisfied with her performance. She acted as if she owned the property and dictated to me what I could and couldn't do. Since I no longer use her services, guests have been much happier and so have I.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Deborah Geeseman
Organization: Individual
E-mail: kumuna@alaska.net
Submitted on: 3/21/2012

Comments:

To State of Hawaii regarding Vacation Rental Legislation

I am greatly concerned about the movement to take over private management of vacation rentals.

If this is a special interest group, namely the real estate property managers, trying to take over the market, then that is pushing out free enterprise and independent business.

If this is because some people are not paying proper taxes to the state of Hawaii, none of these measures will aid that. It appears that the problem is with those who are not in compliance with laws that already exist; laws which are not being enforced. It doesn't matter where the owner lives. If an owner rents out vacation rentals without paying taxes, none of these measures will force them to change their actions. Whether the owner lives on a different island or in another state, does not matter; there are plenty of people who live ON the island in which they rent out a residence and who do so illegally, not being registered nor paying taxes.

Illegal rentals will continue to occur, even if those of us who are already legal are either pushed out of business or forced to comply with new legislation that is not in our best interest. Allowing the Real Estate Property managers to take over the rentals who are currently in compliance will not identify nor stop those who are renting without being in compliance.

If the state wants to create a Vacation Rental License, whereby we give the state the necessary information to show that we are paying GE/TAT taxes, filing yearly Hawaiian taxes, have local contacts for managers and maintenance, that would keep our information confidential and help the state know who IS in compliance. However, it will not identify nor affect those who are not in compliance.

I am an Alaskan resident who fell in love with the Puna area. I purposely designed and built a house there to rent out as a vacation rental and to have for my personal use in the future. By doing so, initially I provided employment for the people involved in the construction. Now I provide employment for my manager, housekeepers, and various other necessary trades. Local contact to my manager IS listed on my ads. She lives 2 blocks away and is readily accessible to my guests. (That would not happen with a professional Real Estate Manager who would probably be located in Hilo, 40 minutes away, or even more distant.)

I have faithfully paid my Hawaiian GE and TAT taxes since I opened my business and have filed Hawaii non-resident income tax each year. I am a small, 1-home

vacation rental business, and am considered an "active participant" in my operation according to IRS classification.

If I am forced to turn my property over to a real estate manager, I will not be able to keep my home as a vacation rental. It will force me to close my business. Real estate managers charge a much higher rate (though all inclusive) AND it will change my IRS classification to "passive" activity; hence, any income gained would become "passive income" and I would lose many of my deductions for the operation. The combined increased cost for management and the decrease in tax write-off would make this business venture very unprofitable.

I strongly oppose these bills which allows big business to take over small private enterprise. If it passes, I will be one business that will cease to exist. Then I will no longer be providing the state with monies for GE/TAT taxes, nor employment for local workers. PLEASE VOTE AGAINST the takeover of small private enterprise. Please find a way to enforce the laws that already exist. Don't penalize those of us who ARE in compliance; don't force us to go out of business.

Mahalo.

Deborah B Geeseman
Kapoho Kaiyo Ocean Retreat
Puna Area, Big Island

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Martin and Dianne Smith
Organization: Individual
E-mail: dmsfremont55@sbcglobal.net
Submitted on: 3/21/2012

Comments:

We strongly oppose HB1706. We agree with its intent but feel it creates more problems than it solves. There is a serious effort among a few Hawaiian real estate property managers to insert themselves where they are not wanted, namely in the transient vacation rental business, where they hope to earn fat commissions. However, many vacation rental businesses prefer to manage their operations themselves and do not need professional real estate managers. A better term for the role of an on-site manager would be "Designated Local Contact."

Of course off-island owners already have designated local contacts to take care of their properties, like housekeepers, handymen, trusted neighbors or family members. They wouldn't be successful at their businesses if they didn't utilize local people for on-site care. Owners accomplish this without the assistance of professional real estate property managers, and they should not be required to hire them.

The other huge problem with this bill is that it treats residents and non-residents differently, which won't pass Constitutional muster, a concern already raised by Hawaii's Attorney General. This bill needs to be soundly defeated before it creates an expensive legal mess.

Thank you for the opportunity to voice our opinion.

Martin and Dianne Smith

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carol Busby

Organization: Individual

E-mail: carolannbusby@gmail.com

Submitted on: 3/21/2012

Comments:

"rental agent" needs to be clarified. I have a local person who oversees the care of my unit; I do not feel that such a person need be a realtor and would like that clarified in the bill.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: deb morse

Organization: Individual

E-mail: mefd@pacbell.net

Submitted on: 3/21/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ivar Pedersen

Organization: Individual

E-mail: ivar@ivarp.com

Submitted on: 3/21/2012

Comments:

I am a non resident owner of a condo on Maui opposed to hiring a local agent to manage my unit.

It is just an added expense I cannot afford. As an owner, I am, of course, interested in providing the best possible individual service to my guests, not matched by any outsider.

My 'welcome manual' in the unit not only provide the name and phone number of a local agent for unforeseen repairs, but also information of local activities of interest to island visitors.

Respectfully submitted,

Ivar Pedersen

Tax ID No. 3026536201

MARSHA VAUGHN, LSCW

2513 San Mateo Street
Richmond, CA 94804
(510) 526-1994
(510) 206-4619 cell

Committee on Commerce and Consumer Protection
Hawaii State Representative
March 17, 2012

Re: HB-1706 – HD1

Dear Senator Baker,

I have submitted testimony in strong OPPOSITION of HB-1706-HD1. I wanted to also write to you individually. The reasons for my opposition are clearly defined in my testimony so I will not reiterate them at length here. The major reason why I implore you to defer this bill is because it is, in my opinion, a more vaguely worded version of half of SB2089-SD1. As you know, SB2089-SD1 was deferred for multiple reasons and had over 700 testimony comments in opposition to it. If you have read the testimony against it, you will see that the very same reasons apply in the case of HB-1706-HD1. In short:

1. This bill is discriminatory against non-residents and as such unconstitutional.
2. This bill does NOT protect consumers in any way, despite its supposed intent. Once again, this bill is designed to allow Hawaii rental management companies or real estate agents to take over the management of non-resident transient accommodations businesses.
3. This bill, as worded, like SB2089-SD1 provides an unfair advantage to rental management companies who, if they are required to run our businesses for us, will have all the necessary information about our tenants to rent them whatever they want.
4. There is absolutely NO evidence to prove that local agents will be more timely or more honest in paying TAT or GE, if this is the hidden agenda in this version of this series of bills.
5. It appears from communication received from some legislators that the individual voice of non-resident owners is not as pertinent to the decision making process as the burden you may be placing upon your own infrastructure. In this vague description of the requirements, who would be responsible for the oversight of this new law?

I thank you for your time and service and pray that you will defer very poorly conceived and vague bill. I have also submitted a proposed amendment to this bill such that:

“Every transient accomodation located in the State shall have a local on-island contact who is responsible for handling emergencies and/or problems that tenants face with the rented unit during the duration of their stay. The local on-island contact shall reside on the same island as the transient accomodation. The name and phone number of the local on-island contact for each transient accomodation shall be provided on an annual basis to the Department of Commerce and Consumer Affairs. The local on-island contact shall also be provided on an annual basis to the Property Manager or Resident Manager of the condominium complex.”

Mahalo,

Marsha Vaughn

Condo Owner, Kihei, HI

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Peter Belden

Organization: Individual

E-mail: mail@seamountain24.com

Submitted on: 3/27/2012

Comments:

My wife and I have been owners of a condominium on the Big Island at Sea Mountain in Punaluu since 2005. The purchase of this property (the only piece of real estate that we own) hinged on the income that we could derive from renting the unit out as a short term vacation rental. This pays the bills. Immediately upon close of escrow, we researched the applicable regulations, and obtained all necessary licenses to operate as a vacation rental unit. We have collected and paid our TA and GE taxes religiously. We hire local friends to do the housekeeping services and keep an eye on things for us when we aren't here. As you know, this part of the island is very remote. Marketing the unit and attracting renters is not something that we have found any of the local "rental agents" capable of doing effectively. Initially we worked with the same real estate agency that represented us during the sale. Their performance in keeping our unit rented was average to mediocre. When they gave up on the vacation rental business, we took our business to the only other agent that we knew of in the area. Her performance was worse. During this time, out of necessity, we established our own website and posted vacation listings on the web ourselves in order to establish our rental property and produce the income that we needed to pay the mortgage. We have worked hard to build our rental business with good advertising and lots of personal customer service to our clients. Much of our business has come through referrals and repeat customers. We are doing our best to weather the tough economic times, and are succeeding due entirely to our own hard work. We play by the rules and always have. The proposal put forth in HB1706 (and similar measures) that we give up our hard won business to a disinterested local rental agent (and pay them a commission for the privilege) is patently unfair. We have reasonable rates (as we must to compete on this part of the Island) and run on a very tight margin as it is. Forcing us to bring an unwanted paid partner into our business would likely tip the balance of our finances here, and force us to sell and invest elsewhere. We are the good guys; bringing in the business and paying the taxes, as well as bearing the other financial burdens of being a non-resident owner. We ask that you reconsider your legislation so as to not penalize us (and many others like us) who are in full compliance. We have no problem adding our tax ID number or other official identification to our website and advertising. We already have local representation for any issues with our rental unit. We would be willing to further register with the State as a confirmed "tax paying rental unit". However, we will not stand by quietly while State Legislators attempt to give our hard won private business away to the local hotel and real estate industry.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Caroline Friesen
Organization: Individual
E-mail: cfriesen@roadrunner.com
Submitted on: 3/26/2012

Comments:

I am an out of state vacation property owner who on a part-time basis rents our property to people visiting Maui. I keep accurate records, pay all of my taxes collected and file an out of state tax individual tax form each year. Our unit has an on-site caretaker and a professional housekeeper. We do everything by the book! If you pass this legislation, we can no longer afford to offer our unit for rent to tourists who bring an enormous amount of dollars to the Hawaiian economy - a Real Estate agent would take every bit of profit that we currently make after lease, maintenance fees and taxes. That little bit of profit is directed for improvements to our unit and general maintenance costs. Why would you even consider punishing honest tax abiding citizens with a law such as this? My husband and I both feel this law is unconstitutional in that it assumes that those not collecting and paying taxes are out of state residents. This law is an attempt by Real Estate Management Companies to unlawfully have control over privately owned residences. I have viewed units "managed" by these types of companies - NO THANKS - they do not care about our units - they care about their commissions. Screening of potential renters is non-existent. We will sell our unit before we employ or contract a Real Estate Agent to manage it. Please vote NO on this legislation.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith and Della Halvorson
Organization: Individual
E-mail: KiheiAkahi.Palekaiko@shaw.ca
Submitted on: 3/26/2012

Comments:

Dear Senators,

We oppose HB1706.

We are non-resident owners of a vacation rental property in a condominium complex zoned/approved for short-term rentals, and we have been diligently paying all our taxes.

It is clear that with the recent introduction of bills HB1706, HB1707, SB2089, SB2078, the goal is to increase tax compliance among the vacation rentals by owner segment. We whole-heartedly support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws, however, we feel that the State of Hawaii has all the tools at its disposal to take care of the problem of non-payment of taxes.

There have been many amazingly articulate individuals who have submitted reasoned arguments in opposition to this bill. Rather than take up your valuable time, I would simply ask that you add our voices in opposition to HB1706.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands. We may only have 20 customers a year, but we are passionate about our little business and are working very hard to support the economy in the State of Hawaii.

We respectfully request you oppose the passage of HB1706.

Mahalo for considering our testimony,

Keith and Della Halvorson

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Judy Cash
Organization: Individual
E-mail: judycash@comcast.net
Submitted on: 3/26/2012

Comments:

Honorable Members of the Senate CPN Committee

Mahalo for the opportunity to testify in opposition of this bill.

I am a non-resident property owner who has owned property in Maui for over twenty years. Before I outline the reasons for my opposition I would like to provide an overview of the current situation.

1. Non-resident property owners are the best ambassadors that Hawai'i has. They love Hawai'i and its people and tell prospective visitors about how wonderful it is every day. They are honest, hard working, tax-paying people who would like to see Hawai'i collect all taxes due the State and they have a vested

interest in seeing that that every visitor has a wonderful experience and will return

2.. Vacation rentals-by-owners is a growing phenomenon because it represents a cost effective business model in which both the owner and guest prefer to deal directly with each other than through a realtor or property manager.

This business model results in higher satisfaction among visitors and higher revenues to the property and accordingly, HIGHER TAT and GET revenue to the State of Hawai'i !!!

2. Property managers feel threatened by this relatively new rental-by-owner phenomenon. As a result realtors and property managers have a vested interest in testifying on support of this legislation. Their testimony should be seen for what it is - a blatant attempt to have onerous legislation imposed on their competitors.

3. This is one of a multitude of bills, which if passed, whose effect would cause significant economic harm to non-resident property owners. Is it just a coincidence that all these bills have been introduced simultaneously?

4. Previous testimony by property managers in support of this bill have included outlandish and unsupported claims that non-residents property owners are fraudulently avoiding GET and TAT tax. I take this as a personal affront, and hope that all members of the House and Senate also view these unsupported claims to be an affront to the integrity of this Honorable institution.

I oppose this legislation because:

1. The reasons for the bill are unclear. There certainly has not been any documentation to show that non-resident property owners are not paying their taxes.

2. The bill is extremely ambiguous. What is a rental agent? Is a rental agent required? Does rental agent mean a local contact, or is it much more onerous?

3. Depending upon the definition of terms of rental agent, it could result in very onerous requirements on non-resident property owners. This is potentially against the US constitution and contrary to NAFTA (North American Free Trade Act)

4. If onerous requirements on non-resident property owners results in a financial loss to them, it could provide grounds for litigation by the non-resident property owners against the State.

5. If the bill makes it more difficult for non-resident property owners to rent their property, it will result in LOWER TAT and GET revenue and LOWER property values.

6. It is very unlikely that non-resident property owners will pick-up and leave the State with funds belonging to visitors and the DOT, unless their property is on a house-boat. On the other hand, there has been notable instances where

property managers have closed up left visitors, DOT and property owners high and dry.

In sum, this bill has the ability is to cause significant economic harm to Hawai'i's best ambassadors, reduce the State's GET and TAT revenue, open the State to lawsuits over the economic harm they have inflicted, run the risk that the bill will be declared unconstitutional, and run the risk that it will be declared a violation of NAFTA.

On the other hand, if it is passed, it will benefit only property managers who have not found other ways to compete effectively in the internet age.

I have full faith in your ability to clearly see that the disadvantages of this bill far outweigh the advantages. I ask you to OPPOSE this bill for the benefit of all the people of Hawai'i.

Mahalo for considering my testimony

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kim & Paul Sanderson
Organization: Individual
E-mail: k-sanderson@shaw.ca
Submitted on: 3/26/2012

Comments:

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Veronica Leonova
Organization: Individual
E-mail: vleonova@comcast.net
Submitted on: 3/26/2012

Comments:

Although we are supporting the intent of HB1706 SD1, we oppose the Bill as it is written.

Our concerns/suggestions in regards to proposed bill:

1. On island contact person definition - we feel that the term of "designated local contact" (not rental agent) is more appropriate.

2. We are concerned that the bill may be changed to reflect the rental agent be a licensed real estate profession.

Thank you for the opportunity to comment on this proposed Bill .

Veronica Leonova, Wheeling, Il - vacation rental properties owner.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ligia Martinez
Organization: Individual
E-mail: maui4mee@aol.com
Submitted on: 3/27/2012

Comments:
Oppose

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: V
Organization: Individual
E-mail: lola@lupan.net
Submitted on: 3/27/2012

Comments:
I strongly oppose the notion that owners MUST hire an agent to manage their property. They should be able to make that choice on their own.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cara Birkholz
Organization: Individual
E-mail: carabirk@gmail.com
Submitted on: 3/26/2012

Comments:

I agree that resident managers should have the contact information for an on-island owner representative. However, requiring that the contact be an on-island rental agent doesn't make sense to me. What you need, is someone who can enforce the already existing written rental agreement between the owner and the guest.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Gilbert
Organization: Individual
E-mail: johnlgilbert@yahoo.com
Submitted on: 3/26/2012

Comments:

This legislation does not solve any problem but rather just makes it more difficult for owners and resident managers of associations to conduct their business and do their jobs. This is no time to put additional cumbersome requirements on owners or associations employees.

To whom this may concern,

Re: Measure number SB2089 SD1.

If the cost of renting a condo in Hawaii rises by 25% - 40% more for the same condo, I will definitely rethink my visit. I have been renting directly from owners for 5 years now (3 times a year) and have never had a problem. Renting from an owner has always been a good experience and that I have always paid Hawaii tax when I rent from an owner.

Kathleen McGuire
187 Valley Crest Close NW
Calgary, AB
T3B 5X3

403-612-0159

Thomas Martinez

414-788-6334

Against HB1706

We own vacation rentals here in Maui and have paid GE/TA taxes since our initial purchase in 1998.

We are responsible business owners and have taken many years to build our rental business. When we used a property manager in the past, our rentals were 40% occupancy at best, and then the manager took 40% commission. If we are mandated to hire a property manager, we can not continue our business and will be forced to sell, it seems certain that a flood of sales in an already weak market will force real estate prices down more.

We strongly support the need for enforcement of tax collection but there must be a better way. Perhaps you mandate using a local cleaning service in which you audit to compare occupancy.

If there are individual businesses that are not reporting their income, this bill will not change that fact. It will only negatively affect those of us who are legitimate business owners. There are certainly many ways in which to enforce tax collection, imposing undue sanctions on law-abiding taxpayers should not be the answer.

Thank You

Thomas Martinez

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Susan R. Campbell
Organization: Individual
E-mail: susan@nighthawknest.com
Submitted on: 3/27/2012

Comments:

I ask you to defeat this legislation. I totally support paying HI taxes and I do quarterly for my West Maui property. I do not believe it is necessary to insert a property manager or realtor into this situation. Go after those who are not paying as the law allows. This change will only serve to make it worse. The current laws in place are sufficient if properly enforced.

I rent the property myself about 80% of the time and do have a local property manager whom I pay to handle things for me on Maui. I support that. But my clients prefer a personal touch, my PM can and does move them to other units than the one they request, and people love that they 'know' the owner. I can give a more personal touch when my property manager simply refers clients to their website and tells them to contact him if they see something of interest. I talk to them!

I have and will continue to pay my HI taxes and ensure I pay a local property manager to handle things when needed. This law is not the way to solve the problem of tax collection.

Please thoughtfully consider the feedback of those responsible non-residents who properly rent and pay our taxes. The only ones who benefit here are the property managers.

Please vote no. Thank you for your thoughtful consideration of my input.

Mahalo!

Dear Senator Baker, Committee Members, and Members of the House and Senate,

I oppose HB1706 H.D.1 on the following grounds: This bill is discriminatory and does not address the purpose of the bill. It purports to enhance consumer protection but only for consumers occupying non-resident owner rental properties. What about resident owner rental properties? Consumers renting these properties would be less protected. Just what are they protected from anyway, proper treatment as customers? Also, how does a rental agent somewhere in the state of Hawaii better protect the consumer than an on island contact person?

I am a non- resident owner of a condominium who is registered to collect taxes and do business in the state of Hawaii. I run my business with utmost care for my guests and have an on island contact and staff available for emergencies. My little business is well respected and well cared for by me. My ex real estate rental manager did not do so well. I have a respectable occupancy rate and give a nice check to the Hawaii State Tax Collector. My rental agent property manager found 4 bookings for me for the year. They owned several properties themselves and had a slight conflict of interest with managing mine. They requested all VRBO inquiries be turned over to them for management while I paid for the VRBO site.

If the true reason for this bill is tax collection, the owner, the resident and the non- resident alike have the most at stake to make sure the property is rented and well cared for. It's just common sense. The consumer is best protected by the owner of the property that has a vested interest in the property value. A real estate agent somewhere in the state of Hawaii is NOT the person to best protect the consumer or owner. Again I ask protection from what?

What is the purpose of this bill? It appears to protect the rental agents of Hawaii, not the consumer who is visiting the state. Again, the owner who is self- managing the property has the most reason to successfully rent the property to happy, tax paying guests.

My suggestion for you is to replace the term a Rental Agent in the state of Hawaii simply with "on island contact": that is if your intent is truly to protect the consumer. This bill does not appear to do that.

Thank you for allowing my testimony. It should be in time to appear before your committee hearing. I would be there in person but my flight arrives in the afternoon of the 28th. Perhaps I can meet with each of you individually so I can better understand what you are trying to accomplish.

Sincerely,

Bonnie Aitken

Marilyn Leland
1032 Potlatch Circle
Anchorage, AK 99503
kazoom@gci.net
March 25, 2012

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: Opposition to HB1706

Honorable Chair, Vice Chair and Committee Members:

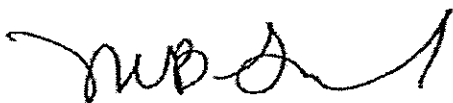
I am writing to you today to express my opposition to HB1706. This bill would require me, as a non-resident owner of a vacation rental property on Maui, to hire a rental agent who would be responsible for the management of my unit.

My understanding of the intent of this and other bills that have been introduced is to create a process whereby Hawaii can be assured that non-resident owners of vacation rentals are paying the required GET and TAT. However, I am unaware of any studies that have been done to determine if, in fact, a non-payment problem exists or, if it does, the extent of the problem and research into appropriate solutions. I own a condo in Maalaea, Maui and I pay all of my taxes on time and in full and other owners who I know do the same.

I am very concerned about the impact the requirement to hire a rental agent will have on the vacation rental market in Hawaii. My goal when I bought the condo was for it to pay for itself and it is doing that, but just barely. If I were required to pay even a 15% commission to a rental agent, I would be taking a loss. My monthly expenses include condo association dues, leasehold rent, utilities, cleaning, taxes, an on-island contact for emergencies and maintenance. I refinanced my home to be able to buy my dream condo in Maui, so while I am not carrying debt on the condo itself, I do have a mortgage payment that must be made. If this bill passes, I will probably be forced to sell and I expect many other owners will find themselves in the same predicament. The condo market in Hawaii will be flooded.

I am not unsympathetic to Hawaii's desire to know that everyone is paying their taxes. I want the same thing. But if after the needed research is done and it is determined that indeed there are vacation rental owners, resident as well as non-resident, who are not paying their taxes, I believe the first step should be for the Department of Taxation to be given the adequate resources to enforce the existing laws rather than passing new laws that will only serve to punish the law-abiding owners and do irreparable harm to the vacation rental market.

Sincerely,



Marilyn B. Leland

Honorable Members of the Senate CPN Committee

Mahalo for the opportunity to testify in opposition of this bill.

I am a non-resident property owner who has owned property in Maui for over twenty years. Before I outline the reasons for my opposition I would like to provide an overview of the current situation.

1. Non-resident property owners are the best ambassadors that Hawai'i has. They love Hawai'i and its people and tell prospective visitors about how wonderful it is every day. They are honest, hard working, tax-paying people who would like to see Hawai'i collect all taxes due the State and they have a vested interest in seeing that that every visitor has a wonderful experience and will return
- 2.. Vacation rentals-by-owners is a growing phenomenon because it represents a cost effective business model in which both the owner and guest prefer to deal directly with each other than through a realtor or property manager. This business model results in higher satisfaction among visitors and higher revenues to the property and accordingly, HIGHER TAT and GET revenue to the Sate of Hawai'i !!!
2. Property mangers feel threatened by this relatively new rental-by-owner phenomenon. As a result realtors and property managers have a vested interest in testifying on support of this legislation. Their testimony should be seen for what it is – a blatant attempt to have onerous legislation imposed on their competitors.
3. This is one of a multitude of bills, which if passed, whose effect would cause significant economic harm to non-resident property owners. Is it just a coincidence that all these bills have been introduced simultaneously?
4. Previous testimony by property mangers in support of this bill have included outlandish and unsupported claims that non-residents property owners are fraudulently avoiding GET and TAT tax. I take this as a personal affront, and hope that all members of the House and Senate also view these unsupported claims to be an affront to the integrity of this Honorable institution.

I oppose this legislation because:

1. The reasons for the bill are unclear. There certainly has not been any documentation to show that non-resident property owners are not paying their taxes.
2. The bill is extremely ambiguous. What is a rental agent? Is a rental agent required? Does rental agent mean a local contact, or is it much more onerous?

3. Depending upon the definition of terms of rental agent , it could result in very onerous requirements on non-resident property owners. This is potentially against the US constitution and contrary to NAFTA (North American Free Trade Act)
4. If onerous requirements on non-resident property owners results in a financial loss to them, it could provide grounds for litigation by the non-resident property owners against the State.
5. If the bill makes it more difficult for non-resident property owners to rent their property, it will result in LOWER TAT and GET revenue and LOWER property values.
6. It is very unlikely that non-resident property owners will pick-up and leave the State with funds belonging to visitors and the DOT, unless their property is on a house-boat. On the other hand, there has been notable instances where property mangers have closed up left visitors, DOT and property owners high and dry.

In sum, this bill has the ability is to cause significant economic harm to Hawai'i's best ambassadors, reduce the State's GET and TAT revenue, open the State to lawsuits over the economic harm they have inflicted, run the risk that the bill will be declared unconstitutional, and run the risk that it will be declared a violation of NAFTA.

On the other hand, if it is passed, it will benefit only property managers who have not found other ways to compete effectively in the internet age.

I have full faith in your ability to clearly see that the disadvantages of this bill far outweigh the advantages. I ask you to OPPOSE this bill for the benefit of all the people of Hawai'i.

Mahalo for considering my testimony.

John Eckel

Dear Senators,

I am a nonresident condo owner who opposes HB 1706 and all of the other like transient bills before your consideration. I know we can't vote but I believe the non residents own a fair amount of Hawaii real estate and put a lot of money into state coffers. That is why we should be heard.

We are not against making the cheaters pay up and as far as AOA's are concerned it would be an easy solution without passing another bill. As other non residents have stated, have all condo owners report to their AOA's TA and GE license #'s, and whether their condos are vacation rentals or owner occupied for property tax purposes. Also make the owners supply the name and contact number of their on island representative. I already do this and I think most owner rented condos are required to do so. The AOA's could send in a form with all this info to the DOT, thus weeding out all the non compliants . I think private houses and ohanas in neighborhoods are your bigger challenge.

In closing, the rental by owner condos are good business models for Hawaii. We provide an alternative to hotels and the random rental pools. Our condos rent more because we provide personal service which makes happier guests that return year after year. If you ever have the time, go on any VRBO site in Hawaii and read the comments. Our guests think of our condos like second homes. We are proud owners and feel privileged to own a little piece of paradise. Don't punish us

Lindsay Farley Hughes

March 24, 2012

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Dear Committee Members:

I am an out-of-state owner of a single condominium unit in Maui, I rent my unit out to Hawaii visitors as a short term rental, and manage my rental myself. **I am opposed to HB1706.** My condominium unit is zoned for short term rentals, and I pay all required Hawaii and Federal tax (Tax ID W07166922-01). It is the only rental unit I own; the only other property I own is my personal home in Oregon. I purchased my condo unit as an investment.

Before I purchased my condo I did research about Hawaii laws and the economics of renting a condo in Hawaii. I learned that hiring a rental company to manage my single rental unit would be extremely expensive, and I would not be able to afford owning the condo unless I managed it myself. Managing companies require 25 to 50%, or more, of all revenues (not just after expense profits); and this is more than I make in profit each year. I would not be able to afford this extra, state mandatory fee, and would be forced to sell my property.

As an owner, I am fortunate that I own my condo outright; I do not have a mortgage. But most owners have a mortgage, and are actually underwater. Most don't even make a profit as I do. This additional mandatory fee would force many out-of-state owners to sell, at a minimum, or declare bankruptcy, at worse. This would also cause thousands of properties to be put on the market overnight, many of which as distressed properties. This would cause a glut in the Hawaii market, causing home prices to fall, and hurting every Hawaii homeowner.

I do not see this bill increasing tax revenues for the state. Those owners who don't pay taxes are already breaking the law. This new law would not cause these owners to suddenly decide to follow the law and pay their taxes. This law would only hurt those lawful owners how follow the laws and pay their taxes.

I am not only concerned for myself, and the future of my property, I am also concerned for those individuals I hire to maintain my property in my absence. My cleaner (an independent married couple who cleans for private owners), my guest greeter and maintenance man (a retired contractor who makes extra money helping me out), and my on-island agent (a personal friend who only looks after my single unit). I hire these people and follow all state and federal reporting laws, including filling yearly 1099s. If I am forced out of business because of this new law, all these Hawaii residents would suffer, and the state would loose income tax revenues.

I would lose my rental income and be forced to sell my condo, the people I hire would lose income, Hawaii home owners would lose property value, the State would lose property tax and income tax revenues, and those people who do not follow the law and do not pay taxes would continue to not follow the law and not pay taxes. The only beneficiaries of this proposed law would be the managing companies, who pay their employees minimum wage, with most of their profits going out-of-state to their large corporate stakeholders.

Respectfully submitted,

Christopher Humphrey
2925 NE 46th Avenue
Portland, OR 97213

Honorable Chair, Vice Chair and Committee Members

I am opposed to HB 1706

My husband and I purchased a vacation rental home in 2004 on the Big Island of Hawaii. It was a dream come true for us to purchase a "slice of Paradise" in 2004. We love Hawaii and started going there in the 1970s and fell in love with the Big Island while on our honeymoon. Many years later, we found our perfect Hawaii house in Kapoho. We have so much fun sharing our home with travelers, we found another home that we fell in love with and purchased a second home to rent to visitors to Hawaii. We have many family commitments on the mainland and cannot move there full time, but we love sharing our vacation rental homes with other travelers. We have taken the position of being available for these folks 24/7. Everyday we hear from excited, prospective guests and we look forward to talking with them. I handle the administrative process and I love everything about my "job." I converse with these people, share tips about the Big Island, help with their airline tickets, car rentals, set up their reservations and make arrangements for their accommodations at our "slice of Paradise."

We employ a licensed, local, Hawaiian lady and her family who live near the homes. She takes care of our homes and whatever else we need. Her children help her and her husband does our repair work. She is not a "realtor" or "salesperson" or "property manager." She is a Kama'aina, born on the Big Island of Hawaii. She receives a 1099-Misc from us each year. She is bonded and insured and a small business person. If this bill passes, not only will I lose my "job" but this remarkable lady and her husband will lose their jobs, also. The legislatures do not have the consumer's protection at heart, as it will no longer be affordable for some visitors to come to Hawaii.

I'm getting the feeling that my voice does not factor in Hawaii State Legislature considerations, because I am a "non-resident" and currently not registered to vote. The GET and TAT that I collect and remit is in support for the schools, hospitals, services, and infrastructure that keep Hawaii running. This would be the same that a resident collects and remits. I, along with other non-residents who own property in Hawaii, contribute to a strong and economically viable Hawaii; the same way a resident does, by paying taxes and even increased property taxes.

I think if you are going to have these restrictions on non-residents, then you have to impose the same restrictions on residents. Otherwise, this is discrimination! If you are intent on passing this, you need to put a "cap" on what your "realtors" and "property managers" can earn who will be taking our jobs away from us. There needs to be random audits by the State of these realtors and a system of checks and balances, as well as fines for non-compliance. They will need to carry insurance.

I feel strongly about another consideration and that is our NAFTA agreement with our friends in Canada. Many of our guests are from Canada, and many own property in Hawaii. If they are treated "less favorably" than Hawaii's own resident investors with respect to all aspects, including management of their properties, that is going against NAFTA Article 1102: National Treatment. If this Bill passes, other states will figure they can impose this "less favorable" treatment on Canadian's who own property in their states. Trade with Canada is huge! Hawaii will be responsible for starting this domino effect.

There is a provision for Tax Compliant people for exemptions in hiring a "realtor" if we have Tax Clearance Proof as well as 1099's. This was not well thought out, as whom will we get these 1099's from? Our guests? The details of this provision certainly leads some clarification.

I find it hard to believe that your ultimate goal is to drive tourism out of Hawaii, but that is exactly what you will do! Visitors won't be able to afford to come to Hawaii and they won't get the personal treatment that they get now from people like us. Out of state owners won't be able to hang on to their property financially. The small business people we employ will be forced to work for hourly wages for "property managers."

Where is the "real" data to support the claims that have been presented about non-residents not paying taxes? What is wrong with educating people and enforcing the laws you already have as far as getting Transient Accommodation licenses and General Excise licenses and payment of taxes? Putting new laws on the books when you can't enforce old laws, is not a solution.

Respectfully submitted:

Pat & Andy Starkie

www.bigislandhawaiiivacationhomes.com

Morro Bay, CA 93442

Pat Starkie

www.bigislandhawaiiivacationhomes.com

805-225-1552

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Thomas J. Jackson
10647 Wyckham Way
Truckee, CA 96161
530/308-8667
tom.jackson99@gmail.com

03/26/2012

ref: Hawaii HB 1706

Dear Sirs & Madams,

I am opposed to this bill and similar legislation that restricts the methods of transient accommodation rentals of private property available to homeowners. Implicit in the legislation is non-compliance with current tax laws. We file our TA & GE statements in accordance with current laws and pay all applicable taxes. This legislation unfairly restricts our ability to control the rentals of OUR PROPERTY and is unduly restrictive.

It places homeowner's at the mercy of third party agents who may not serve the best interests of the homeowner. We have personally had negative experiences with two on-island property management companies that included fraud and damage to our home as well as negatively impacting our time, expense, and peace of mind regarding OUR HOME & INVESTMENT.

Lastly, this bill will restrict rentals in such a way as to lower the income to the state of Hawaii. An alternative is to prosecute people who violate current tax laws and NOT penalize property owner's who work within current laws and pay their taxes to the state of Hawaii.

The ability to privately manage rentals and personally control one's property interests is a key factor in the sales and marketability of a majority of residential properties in the state of Hawaii. This bill will not only negatively impact private homeowner's and the state of Hawaii, it will negatively impact the general real estate market in Hawaii. The ONLY ones to benefit from such legislation are the on-island rental agencies. Such legislation places them at an unfair, and in my opinion an un-lawful, advantage at the expense of private homeowners who currently pay taxes. Private investment in residential property is a key factor that drives accommodation options available to tourists and thusly contributes to the general health of the Hawaiian economy.

Please do not pass the short-sighted bill or other similar bills that unfairly restrict homeowners ability to control their own property.

Very Truly Yours,

Tom & Colleen Jackson

March 15th, 2012.

Chair, Rosalyn H. Baker and Members
Senate Committee on Commerce and Consumer Protection
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813

and

Members of the House and Senate
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Senator Baker, Committee Members, and Members of the House and Senate:

My name is Adam Leamy. I am a Canadian citizen, residing in Victoria, British Columbia, Canada. I am writing in respect of the North American Free Trade Agreement (NAFTA) and **House Bill 1706 HD1**. It would appear that the requirements of HB1706 HD1 offer contrast to the provisions and protections offered by NAFTA, which form the basis of modern-era trade between our two countries.

My interest in this bill, and recent bills like it, stems from my ownership of two properties on Maui; units 203 (purchased in 2008) and 208 (purchased in 2011) in Hale Kai O' Kihei. This is a 59-unit building located at 1310 Uluniu Road in Kihei, 96753, and is supported by a full-time, live-in Resident Manager. Both apartments are cared for and attended to by Tips Maui, Inc., owned by Mr. Ed Galvez, of Maui, Hawaii. My Hawaii Tax Identification Number is W87097056-01. My Internal Revenue Service Tax Identification Number is 98-0607258.

I make each of my properties available to vacationers to Hawaii through Vacation Rentals By Owner, where they are listed under www.vrbo.com/241190 and www.vrbo.com/357582. I make all my own bookings. My bookkeeper provides invoice and supplementary guest-contact support in this regard, and ensures collection and remittance of the Hawaii Transient Accommodation Tax and the General Excise Tax. My accountant prepares my Canadian tax return for the Canada Revenue Agency. And an IRS-qualified and recognized accountant makes all required filings to the Internal Revenue Service per its requirements and the "United States — Canada Income Tax Convention," i.e., IRS form 1042 and Hawaii State Tax Form N-30. These are not inexpensive services, but in my view, they are what's required to operate responsibly and successfully.

In respect of HB1706 HD1, the details of the Bill, excerpted from it, are as follows:

Report Title: Condominiums; Rental Agents

Description: Requires owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the unit.

I have written previously on bills introduced this session. I stated then, and do so here that because of my respect for United States sovereignty over its affairs, and that of the individual States over theirs, I offer no stance on this bill, just comment. I do hope, however, that my input might be considered so that in meeting its policy objectives, the Hawaii State legislature upholds the provisions and protections of NAFTA that are relied upon by those engaged in cross-border investment between our two countries.

My comment on HB1706 HD1 centres on the NAFTA protections on cross-border investment that the United States Government and the Government of Canada and the governments of their respective States and Provinces agreed to extend to Americans and Canadians engaged in cross-border investment. This agreement — NAFTA — came into effect on January 1, 1994, after having been signed by U.S. President George H. W. Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney.

As NAFTA specifies (noting that “Party” means the United States, Mexico, and Canada):

NAFTA Article 1102: National Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:
 - (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
 - (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

I note that HB1706 HD1 makes a distinction between Hawaii ‘residents’ and, in my case, Canadians. It would it seek to afford “the most favourable treatment” to ‘residents’ and impose additional establishment, acquisition, expansion, management, conduct, and operation, and sale or other disposition requirements on Canadians, i.e., by ascribing to this class of investor the term “nonresidents.”

It would seem to me that if individual citizens of Canada and the United States made such investments, and then found that state or provincial action applied greater operational standards and additional costs to them than it did to ‘resident’ investors engaged in the same enterprise, NAFTA would be discredited within both countries at its basic level: by individual

citizens who sought to pursue cross-border investment and enterprise through its provisions, only to see themselves the focus of targeted operational requirements and costs *after* the investments had been made.

It also seems likely that such individuals, encouraged by their governments to embrace NAFTA and seek opportunities under its provisions, would quickly turn to these same governments for action and resources to offset the additional costs imposed on them because of such governments' encouragement to embrace NAFTA, and the failure of the cross-border state or province to honour its provisions and protections.

The NAFTA protections on national treatment notwithstanding, I note that in respect of HB1706 HD1, it would require ". . . provision of contact information of a rental agent located in the State who is responsible for the management of the unit." If the intent is for guests to have someone responsible and accountable to turn to if there are on-site problems, or if they are to be notified of issues impacting their concerns or well-being, I believe that I have that circumstance addressed. Indeed, as part of the detailed "Guest Welcome Letter" and supplemental information I provide to all my guests — I provide my cell (for calling and texting) and desk phone numbers and my email addresses, for contact purposes. As well, in both units, I provide free long-distance services through Hawaiian Telecom, in part so that guests can reach me without delay or cost.

More specifically, in materials I supply to guests before they depart their homes for Maui, and that I post clearly in each unit, on the refrigerators, I provide the following additional contact information:

KEY CONTACTS DURING YOUR STAY

If you have any questions or concerns, please don't hesitate to contact me first:

Adam Leamy, Owner

Cell: (250) my cell number / Desk: (250) my desk number

Email: my email address

For unit 208 issues, i.e., cleanliness, plumbing, electrical, or other maintenance matters, the people to contact are:

Ed Galvez, TIPS Maui

Cell: (808) Mr. Galvez's cell number

Email: Mr. Galvez's email address

For building issues, i.e., walkways, laundry, WiFi, parking lot, pool, grounds, or building security, the person to contact between 8am – 4pm is the on-site resident manager:

Mike Steiner, Resident Manager, Hale Kai O' Kihei

Hale Kai O' Kihei Unit #: Mr. Steiner's apartment number

HKOK Cell: (808) Mr. Steiner's cell number

In the almost four years since I purchased unit #203, and the nine months since I purchased #208, this Key Contact information, when it has been necessary, has worked flawlessly. Indeed, thanks to the Digital Age and all the innovation it embodies, distance decay has been greatly

reduced; just last week, I was able to receive, courtesy of the County of Maui's website, immediate information on the Boil Water Advisory, and using the digital means available to me, reach my guests within minutes of the notice being sent out.

But if, in requiring "... provision of contact information of a rental agent located in the State who is responsible for the management of the unit," the intent of HB1706 HD1 is to address a situation whereby an owner has not provided similar "Key Contact" information and accountability by assigning to someone other than me responsibility for any part of the establishment, acquisition, expansion, management, conduct, and operation, and sale or other disposition of my properties in Hawaii, then I would again reference the provisions and protections afforded by NAFTA to Canadians who have made cross-border investments in the United States, and to Americans that have made cross-border investments in Canada, citing the United States Department of State, whose website (<http://www.state.gov/s/1/c3439.htm>) offers additional clarity on the matter:

Chapter Eleven of the North American Free Trade Agreement (the "NAFTA") contains provisions designed to protect cross-border investors and facilitate the settlement of investment disputes. For example, each NAFTA Party must accord investors from the other NAFTA Parties national (i.e. non-discriminatory) treatment and may not expropriate investments of those investors except in accordance with international law. Chapter Eleven permits an investor of one NAFTA Party to seek money damages for measures of one of the other NAFTA Parties that allegedly violate those and other provisions of Chapter Eleven.

I am not alone in investing in United States real estate in order to establish and conduct enterprise there. I expect that there are many thousands of Canadians who have made and operate similar investments in Hawaii, Florida, California, the New England states and all other states and regions of the United States, providing legal guest accommodation in all manner of housing types and locations. In the same vein, there are likely many thousands of Americans who have invested in vacation and second properties in the provinces and regions of Canada, and through responsible management decisions, make them available to tourists visiting those locations.

It also seems to me that in these uncertain economic times, it is better to head off such problems so that people can focus their energies on making investments and creating and operating enterprise. This does not seem to be a good time for any of us to be distracted from the fundamentals our business investments and our operation of them.

And that is why in writing to you I am again writing to others, by email or by fax as appropriate, in order to seek their efforts in providing helpful input to Hawaii State Legislature on bill HB1706 HD1. It is my hope that they may be able to assist in ensuring HB1706 HD1 and bills similar to it achieve State of Hawaii objectives while honouring and upholding the provisions and promise of NAFTA, as committed to by the United States, Mexico, and Canada. These individuals are:

- All Members of Parliament (MP) from BC and Alberta, Canada (whose constituents, be they American and or Canadian, might own investment property in Hawaii and the other States)
- All Senators from BC and Alberta, Canada (for the same reason as writing to MPs)
- All other MPs in Canada (in respect of the 'creep' of HB1706 HD1 to other States where their constituents may have rental vacation properties and expect NAFTA protections to prevail)

- The Hon. John Baird, MP, Minister of Foreign Affairs, Ottawa, Canada
- The Hon. Ed Fast, Minister of International Trade, Ottawa, Canada
- The Hon. Diane Ablonczy, MP, Minister of State of Foreign Affairs, Ottawa, Canada
- Ambassador Ron Kirk, U.S. Trade Representative, Washington, DC
- The Hon. Max Baucus, Chairman, Senate Committee on Finance, Washington, DC
- The Hon. Orrin G. Hatch, Ranking Member, Senate Committee on Finance, Washington, DC
- The Hon. Dave Camp, Chairman, House Committee on Ways & Means, Washington, DC
- The Hon. Sander Levin, Ranking Member, House Committee on Ways & Means, Wash., DC
- Sen. Ron Wyden (OR), Chair, Subctte. Int'l Trade, Customs, and Global Comp., Wash. DC
- Ambassador Gary Doer, Canadian Ambassador to the United States, Washington, DC
- Ambassador David Jacobson, United States Ambassador to Canada, Ottawa, Canada
- Consul General Anne Callaghan, United States Consul General in Vancouver, Canada
- Consul General Cassie Doyle, Consul General of Canada in San Francisco (resp. for Hawaii)
- Perrin Beatty, President and CEO, the Canadian Chamber of Commerce, Ottawa, Canada

It is my continuing hope that accurate information on the NAFTA national treatment front might help shape the deliberations and debate by the Hawaii State Legislature. That would be positive, and it is in this spirit that I am contributing. Accordingly, I am asking all recipients of this letter, including, members of the Hawaii State Legislature, to *use the expertise and resources available to them to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB1706 HD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.*

I do hope that in considering the purpose and intent of this and similar bills — if the purpose and intent are honourable and aimed at ensuring lawful participation by all Hawaii property owners offering transient accommodation in support for the schools, hospitals, services and infrastructure that keep Hawaii running — careful thought is given to all good and hard-working Americans and Canadians who have invested in Hawaii and, through payment of taxes, are contributing to a strong and economically viable Hawaii. In may case, I am proud to have a documented business that attracts and accommodates visitors to the state, and which supports the Hawaii and United States economies through purchases made there to ensure the amenities and services are in place to make our guests' stays exceptional.

I know that my voice does not factor in Hawaii State Legislature considerations, but I would hope that commitments our two countries have made to each other — and indeed, expectations that we have of each other through trade treaties and tax conventions — do.

It is important that guests know who they can turn to for assistance and accountability. But HB1706 HD1 would appear to contravene the obligations of the State as committed to by the United States in affixing its signature to NAFTA on behalf of the states. And in these difficult times, it seems an unhelpful thing to let stand any policy or legislative initiative which tells current investors that despite the intent, promise, and security of NAFTA, its provisions and protections are meaningless, and their investment in the United States is as risky as, or perhaps riskier than, an investment in a jurisdiction without a trade agreement.

I would hope that all who read this would provide input to Hawaii State Legislature HB1706 HD1 and others like it to ensure they achieve State objectives and achieve the commitments, provisions, and promise of NAFTA. This bill, and others like it that have been written or amended in the past month, would appear to fail the required standard of providing Canadian investors with "treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part."

If the Hawaii State Legislature were simply aiming to make all owners as responsible as those who are obeying all the tax and other laws, they might reach out to those of us with State of Hawaii Tax Identification Numbers and Internal Revenue Service Tax Identification Numbers so that we could work together to demonstrate progressive ways to enter into tax compliance and guest-service accountability.

Again, I offer to help in any way.

The benefits of, and the responsibilities inherent in owning vacation or 'transient' accommodation in Hawaii or in any state or province should not be limited to the owner, nor end with the purchase of the property by an owner. As so many law-abiding, tax-collecting, and -remitting, and guest-focussed owners have proven — be they American, Canadian, or of other nationality — that purchase can be and is the start of the flowing of benefits and accountabilities to all who call the location of the investment home, and choose to visit it, too.

I hope that's a point upon which we can build and work together, and one that would see us do so while upholding responsibilities, protections, and commitments under NAFTA.

I wish you the best in your deliberations throughout this legislative session. I hope that you will use your expertise and resources, and seek and welcome same from others, to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB1706 HD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.

Sincerely,

Adam

Adam Leamy
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Victoria, BC V8S 2T8
Canada

Tel: 250-592-4778

Email: aleamy@northwestpublicaffairs.com

Business in Vancouver

Feb 21st 2012

Real estate roundup: Peter Mitham

Trouble in paradise: investor storm brews over proposed Hawaiian legislation;

Vancouver investors are speaking out regarding a move by Hawaii's legislature to nix self-management of vacation properties in the state.

Bills before both houses of the state legislature would require investors to contract out management of properties for fees that range between 25% and 45% of property revenues. The bill's ostensible goal is to curb alleged tax evasion, but investors such as North Vancouver real estate agent Terry Gardiner say the proposed legislation would limit investors' freedom to choose how they manage their properties.

Gardiner bought a one-bedroom unit in Honua Kai, a development by Intrawest spinoff Playground Destination Properties Inc. just outside the town of Lahaina on Maui in 2011. Weighing his options between Intrawest's rental program, which would take 45% of his revenue and local options that would charge between 25% and 35%, Gardiner opted to manage the suite himself. Rentals are arranged through Vacation Rental by Owner, a service operated by Texas-based HomeAway.com Inc. Contractors in Hawaii service the suite for him. Gardiner is licensed as a business in the state and pays his taxes regularly. And he doesn't see why he should have to pay someone else to do everything he's already doing.

"What these laws will do is force me to use a property manager in the state of Hawaii," he said. "I'll have to start budgeting for 35% to 45% to come off the top, which at the time I made this investment decision was not even in the wind."

Bills before the state legislature define "nonresident owners" as any owner "who resides on a different island from the property or out-of-state and who rents or leases the property to a tenant."

A review of the legislation by a state senate committee notes that regardless of the tax implications, the lack of a licensed property management company overseeing suites leaves "guests vulnerable in the case of emergencies or natural disasters."

But Gardiner isn't buying it, especially given efforts by the U.S. Congress to introduce a visa that would allow investors buying \$600,000 or more in real estate to spend more time in the country. Hawaii, by contrast, seems to be discouraging investment.

“Can you imagine if they brought in a bill in Vancouver that said you had to use a realtor and MLS to sell your property, that you couldn’t go for sale by owner?” Gardiner asks. “It’s ridiculous. This is the same thing.”

Many investors in Honua Kai and other Maui vacation spots hail from Vancouver, and Gardiner believes the little-known legislative measure could have a significant impact. He is holding off on further investments in Honua Kai until the state decides what it’s going to do.

From:
Denis and Sylvia McMahan
4301 Wellington Dr.
Ft. Collins, Co. 80526

68-3840 Lua Kula St.
Waikoloa Villas, B201
Waikoloa Hawaii, 96738

We are concerned about the possibility of the bill being interpreted or changed to reflect the on island contact being a licensed realtor. We believe that the term *rental agent* should be changed to "*designated local contact*" instead.

We are concerned about the potential fraudulent use of our GET/TAT license number in advertisements. Could the government insure that there would be no threat of identify theft?

We collect and forward both the GET and TAT in a timely and accurate manner. There are surely ways to determine who is and who isn't paying their taxes and then go after those who are not paying their fair share. There needs to be more enforcement of Hawaii's already existing laws.

We **oppose** the use of property managers or real estate professionals in the operation of our vacation rental business.

We are very responsible owners, we screen our guests very well, verifying their suitability as prospective guests, talking with them on the phone, sending e-mails back and forth with many pages of expectations and information, Rental Agreement, House Rules, all signed and returned.

The few times we have booked guests through property managers, there have been problems, with noise, and guests not taking care of our condo, lack of proper communication from the property manager. The managers would not allow us to have contact with the guests prior to arrival, which is where we establish the personal connection and expectations that help make them more conscientious renters. We decided we did not want to use managers again and wanted more direct control over our renting.

Please allow we who are making a very positive contribution not only financially, but in spreading the spirit of Aloha to continue unhindered!

Dear Senators,

I am a nonresident Maui vacation rental owner who opposes HB1706, HB1707, SB2089 and SB2078.

I believe that the proposed intention of these bills, is to tackle the problem of nonresident owners who do not pay their GET/TAT taxes

An owner that does not pay their GET/ TAT taxes is breaking the law. If new laws are put in place, these owners will simply break those laws. The current bills in front of you will not resolve this problem. Not only are the proposed bills discriminatory, they are also anti constitutional and are not aligned with the principles set forth in NAFTA. There are already laws in place for penalties if an owner does not pay their GET/TAT taxes. Those laws should be enforced. This problem is no different than any situation where an individual or corporation does not abide by the tax laws. New laws are not needed

If Hawaii would aggressively go after the owners that are not in compliance (which according to supporting testimony, have already been identified) with the current tax law, the word would spread and soon those types of owners would either discontinue their illegal activities or they would get penalized. Punishing the owners that are abiding by the tax laws does nothing to solve this problem, and instead causes many more problems.

I strongly question the motivation behind the lobbyists that are pushing these bills and the government representatives that support it. If those people are sincere in their concern to collect GET/TAT taxes from non-resident owners, they could contact us for suggestions on how to solve that. We are also hurt by these illegal activities due to competition by unreasonably low rates and negative reviews.

Mahalo,

Ada Eschen

Opposition to Bill SB1706 SD1

Aloha Honorable Members of the House Consumer Protection Committee;

I believe that it is unconstitutional and violates our civil rights to own property and not be able to manage it ourselves. HB1706 SD1 the bill that will make it law to require owners of residential units who reside on a different island than the unit or out-of-state to provide the managing agent or resident manager of the condominium project with contact information of a rental agent located in the State who is responsible for the management of the property clearly discriminates against off island owners.

I believe that the term of rental agent should be changed to designated local contact. All condominium townhome projects do not have managing agents or resident managers so this goes back to the owner should provide the renter with a local contact for emergency reasons. This information should be provided to the renters with their Rental Information Packet prior to their arrival.

Respectfully,

David Giacomini

March 25, 2012 Concerns about HB1706HD1 and amendment request sent 3/26 2012
Honorable CPN Senator Baker and CPNT committee members:

Thank you again for your previous note to us and now, for passing on information of where to send official testimony. We write asking that "on-island contact" replace the word "rental agent" in HB1706 HD-1 and that you equally apply, the uniform local "on-island contact number" to ALL rental owners. Please avoid discrimination against responsible off island owners. Please do not impose the word "rental agent" upon ANY owner. Please also, protect tourists and honest owners from monopolies and resulting problems (such as conflicts of interest and increased expenses) by removing words like "rental agents".

We consider Hawaii our "second home" having long owned a legal licensed rental here and regularly pay taxes. We also want our rental guests to have a wonderful time when they stay in our well maintained condo. We provide one-on-one assistance and attention to their needs in a way that agents can't match.

The issue here is caring properly for island rental guests. Yes, all owners should provide an "on-island" contact number to guest renters, residence managers or AOA offices for cases of need or emergency, but the bill must not reduce tourist options or quality service they need or diminish our owner's right to choose our own contact so that management of own well cared for unit and meeting guest's needs are not compromised. Many rental guests prefer dealing with owners because they get quicker, and usually, more immediate satisfactory results. "Agents" do not mean better care for renters. Our experience as former renters with agents was negative.

The word "rental agent" is too narrow. Not only does the term confuse renters, but it supplants and limits an owner's selection of contact options to a narrow group. Owner determination about who they work with is a basic right. Please do not assume that replacement of owners with "rental agents" will help tourists or solve a tax avoidance issue. (The state (and county) tax departments have means by which they can determine who owes taxes, which is a separate matter).

In closing, please consider Hawaii's future, its tourists who prefer owner various rental choices and the many fine on-islanders who depend on owner managed rentals and tourism for their livelihood, as well as non-residents (who, like us, consider Hawaii our "second home"). Please vote against bills that tie owner hands or propose removal of an owner's widest possible options in their selection of local "on-island contacts. Please do not eliminate or reduce choices for local "on-island contacts" and employees by using the word "rental agent".

The tourist "marketplace" demands diverse choices in rentals—especially in the current economy. Please support and encourage this productive market by passing correctly worded bills. Please reject proposed language that confuse rental tourists, limit their choices, or reduces quality service for them.

You have an ally in consumer protection: Today's internet generation quickly chastises and disciplines irresponsible owners in a way legislators cannot: negligent owners rapidly lose credibility in the web's marketplace when exposed by bad reviews; if those few careless owners do not change for the better when negative reviews are published two things happen:

1. Questionable owners end up failing. They rapidly lose business, drop out of the rental market or sell because the majority of travelers are savvy people who do their homework when renting. Tourists won't put up with overcharges or neglect by owners (or agents).
2. Web rental sites dump bad members who receive bad reviews. Most travel sites let bad reviews stand for all to see. Fortunately reviews prove that responsible owners greatly outnumber the bad. (These sites also provide the tax department with easy cross reference information about who rents and who does, or doesn't pay taxes).

Hawaii receives enormous free positive publicity & millions of dollars from responsible rental owners. Please vote against bills and unfair wording that hurts the rental market, discriminates, or supplants owner involvement and compromises management of their property. Please apply any legislative rule equally to all owners. Thank you for reading our comments. Your proper decisions vitally affect many. We hope our fond connection with Hawaii and the positive care and satisfaction that our "family of renters" receives from us will be able to continue for years to come.

Respectfully, Brooke and Sandra Boswell, 4400 Makena Road, Maui, Hawaii 96753 (808-874-1383, 509-782-1125)

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Barbara A

Organization: miracle housekeeping

E-mail: miraclehousekeeping01@yahoo.com

Submitted on: 3/26/2012

Comments:

I barbara a. opose to this bill the owners we work for always paid & will pay their taxes, wtih out them we are homeless & hungry where will we the small people go to work to support our local family ?? we need these honest people, check on the owners that live here & cheat & don't pay their taxes not the ones that always pay their taxes?

Please people we beg you not to pass this bill, we need to work & eat, we have kids & grand-babies to feed please forget the bill ! Aloha, Barbara A.

I am writing in opposition to HB1706.

I am a non-resident owner of property in Maui. I operate my rental business according to the laws of Hawaii. I pay taxes monthly on the income from these rentals. Because I operate the rental on my own, I am able to pay the mortgage, the homeowners fee, property taxes and other monthly expenses. Should I be required to hire an agent I will most likely have to operate at a loss. Since I am retired I will not have the resources to make up the differences.

In addition, this law is discriminatory, treating me differently than a resident of Hawaii with no just reason. The implication is that non-residents are somehow less capable than residents. If there is a problem with paying taxes, I imagine the same percentage of residents are not paying their taxes as are non-residents.

Also, some of this bill was deferred in an earlier bill. Why is it now being added to HB1706? It appears that the management companies and real estate agents are working to save their failing businesses at the expense of those of us who cannot vote in Hawaii. With current technology one does not have to live where their business is. I can arrange for repairs and deal with problems as easily as someone living next door to my property.

Thank you for your time. Please allow me to continue to operate my business the way I want to run it.

Douglas Mitchell

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Randal Sitton
Organization: Individual
E-mail: rrs7132000@yahoo.com
Submitted on: 3/26/2012

Comments:

Dear Legislators,

The language in the bill is vague. Any interpretation of this bill that imposes significant operating fees to the law abiding residential owner appears to be an infringement on their current form of legitimate business. Though most of the suggestions have merit, it is a poorly crafted and poorly worded bill that is open for legal challenges. Clean it up. Oppose it in its current form.

Linda Mitchell
Lindafinearts@gmail.com

I am opposed to HB1706. Please do not pass a bill that will discriminate against me as a non-resident owner of two transient rental accommodations. I can not afford to pay a rental agent who more than likely will not do as well running the business as I do. I pay monthly GET and TAT taxes. I have on-island contacts and also keep in close touch with the guests myself. I have many satisfied guests who appreciate my attention to detail and my availability to help them with planning their vacation. They are given our on-island contact person's number and they have my cell phone number and my house number. In the course of running the business and maintaining the condos, I pay many locals for goods, remodeling, and services.

I find it difficult to accept that my rights to operate a business in Hawaii under my own management is in jeopardy. There must be ways to enforce existing laws about taxes without forcing me to pay any possible profit I might realize to someone else. It appears that the only ones to gain from the several bills surrounding the issue of management are the large management companies. These agencies are not happy that people are choosing to rent from someone else who gives better service. I don't believe I should be forced to give them forty to fifty percent of monies collected and then have to wonder how they are treating the guests and if they will get me any bookings. Please stop HB1706.

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Christian Ruhrmann
Organization: Individual
E-mail: c_rca@yahoo.ca
Submitted on: 3/26/2012

Comments:
Opposition to Senate Bill HB1076

Thank you, in advance, for considering this testimony. Please note that I am vehemently opposing the above bill as it infringes on my right to own and rent out my own property. If it's not already clear, forcing property owners to use the services of property managers or realtors will result in a dramatic increase in foreclosures (which will obviously result in even less tax being paid and collected) and/or increased rental costs (i.e. less tourism dollars). Not only that, but the entire Bill is unconstitutional as it targets non-residents.

I fully support paying tax and can only recommend some form of official "taxpayer registration" to ensure that both residents and non-residents are fully compliant without the State losing out on tax revenue. For example there it could be made mandatory to include tax numbers on all ads posted on VRBO, etc. to ensure compliance (assuming the government has a way to ensure there are no negative privacy/theft related issues/concerns).

Property managers are the ONLY ones to benefit from this law, everyone else loses! For anyone that chooses to pass this Bill, you will experience the negative effects as people lose their jobs due to reduced tourism, your property values will drop yet again as many of us will be forced to sell/foreclose on our properties flooding the market with cheap condos and homes and the recovery that seemed to be on track, will be reversed. For owners that do not sell, they will have to reduce spending in many ways to stay afloat. All of us owners are worried that we will no longer have acceptable occupancy rates and will not be able to continue to invest in the upkeep of our rentals. Based on information obtained from local small business owners in Maui, it has been made clear that the self-managed units are almost always the nicest ones and also have the most guests. Since many of us owners will no longer have money to upgrade accommodations, we will not be supporting local businesses like construction or those that sell products for remodels and improvements such as furniture and appliances. As an example, an owner of a Kihei Upholstery shop said approximately 30% of her business comes from vacation rental owners like ourselves, please consider how many people a bill of this nature will impact.

In summary, if this bill is passed, not only has the Senate ignored a large amount of opposing testimony but it will have a significant NEGATIVE impact on what is presently a stable and slowly recovering real estate market in the State of Hawaii. Additionally passing this bill will negatively affect the future viability of the tourism sector in the State and the ability to increase tax revenue in order to maintain the proper infrastructure required to support both

residents and tourists. This will be the result of a 20-50% increase in rental accommodation cost through the use of "licensed" Property Managers and/or a dramatic increase in foreclosures due to many of us suddenly being forced to operate rental units with a negative monthly cash-flow. The downward pressure in all sectors will have a negative impact on virtually ALL Hawaiians!

Mahalo for your time and consideration,

Christian Ruhrmann

Dear committee members:

This is discrimination towards non-resident owners which account for a large percentage of investors in the state of Hawaii. These owners/investors are pumping much needed money to the state and attracting visitors to the state. I being one of them. We have invested in a vacation rental property and have been renting it out for the last 6 years. We have done all the hard work to make a successful rental and complying with all state and county's rules and regulations which include collecting and paying all the applicable taxes. Even as it is, we are finally barely breaking even after many years of losses as we built the business. All of our revenue goes towards mortgage, running the business and upkeep of the home. All the staff that we hire are local to Kauai.

Why would you force non-residents to do this when we are complying with all the rules and paying all the taxes? What's the purpose of inserting a third party to collect the rental fees and taxes when we are already doing that ourselves? Adding unnecessary bureaucracy or regulations that makes the business inefficient is very counter productive. Not business friendly at all.

Forcing use to use a third party that will charge us 25%+ service to handle our money would set us back a few years with no chance of recovery as we're already maxing out our occupancy now. If this happen, there's no incentive for us to have this business. We are upside down on the loan and there's no way we can sell. We will most likely not have any choice and let the property go into foreclosure. This would a loose-loose situation for all. To the state as there won't be any visitor taxes to be collected, all the HI staff that we hire will be out of work, there will be another foreclosure in the county and we lose the business we have worked so hard to build.

In summary, please looks at the Big Picture, this legislation will dramatically hurt the entire Hawaii tourism and real estate economies for these reasons:

1. It allows more unnecessary government intrusion into the financial investments of individuals.
2. Forcing owners/businesses to go through a 3rd party for something that they are already doing at an addition 25% cost is absolutely unreasonable. It hurts the business and eventually the tax revenue if the business seize to operate due to lack of incentive.
3. Forcing owners to only rent through agents will drive up rental rates.
4. Many new buyers considering a second home or income property will not purchase one, since they will not be permitted to self manage. They will invest in other markets.
5. Since there will be fewer buyers, real estate prices will fall.
6. Falling real estate prices will result in more negative equity.
7. Falling prices will also result in more foreclosures. I can think of many more reasons for this legislation to fail, however these reasons are incontestable and easy to see.
8. It is unconstitutional to discriminate between resident and non-resident owners.

9. Are you really solving the problems just by singling out non-residents? Residents are probably just as problematic with the perceived issues you are trying to resolve with this bill.

Why would you pass another unnecessary unfriendly business legislation? What purpose does it serve? If the purpose is to go after tax evaders, then go directly after the few that may be doing that. Do not put punish businesses/owners that are just trying to survive and ones that are actually bring money to the state of Hawaii. Please consider the bill very carefully and all of the unintended consequences that it will cause.

Sincerely,

Sunny Judo
sunnyjudo@yahoo.com
(714) 389-6033

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marsha Vaughn

Organization: Individual

E-mail: marshavaughn@comcast.net

Submitted on: 3/27/2012

Comments:

It has been puzzling me why these bills (2089, 2078, 1707 and this one) would have been created in the first place until I read the attached audit of the Hawaii DOT. Do you really think DOT will have the capacity to 1) track and send out exemptions to those of us who qualify and 2) track the reliability of the rental agents who are managing our properties in their tax submission? I think not! You have a dysfunctional, incompetent and old fashioned DOT. You hired an auditor to tell you this. You need to clean up your own house before you pass new laws that cannot be enforced. This is like passing the collection of the taxes on a waitperson's tips onto the hotel and restaurant management firms because they have better computers! This is shameful and unethical. I wonder if the voters know this part of the story?

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robin Jenneve
Organization: Individual
E-mail: motuman@cox.net
Submitted on: 3/27/2012

Comments:

I am a non-resident property owner of a condominium property in Maui. We are one of many owners who purchased our property at the peak of the real estate market and are struggling to make our payments on a monthly basis in the subsequent economic decline.

We currently have an on-site maintenance, cleaning and guest assistance, we have a Hawaii Tax ID number, and we have submitted the required transient accommodation taxes and general excise taxes in a timely manner during our entire ownership period.

Due to the extreme economic duress we are experiencing the added expenses imposed mandatory property management will surely drive us into foreclosure. In discussing this issue with other property owners I believe there are many, many others in the same situation.

Most property owners forced into (artificially inflated) management contracts by this bill will either have to sell or abandon their properties, or enter expensive and protracted legal battles with the State.

PLEASE DO NOT HELP PRECIPITATE ANOTHER WAIVE OF REAL ESTATE FORECLOSURES, LOSS IN PROPERTY VALUES, LOSS OF LOCAL JOBS, AND REDUCTION IN HAWAII VISITOR NUMBERS BY PASSING THIS BILL...OR OTHERS LIKE IT.

The problem lies within. Hawaii needs to be pursue only those owners who are not in compliance, not damage the entire economy due to inefficiencies within the tax department. Please see attached study.

Best Regards,

Rob Jenneve
Maui Property Owner

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sylvia Remington
Organization: Individual
E-mail: svandiamo99@gmail.com
Submitted on: 3/27/2012

Comments:

I am OPPOSED to this bill. We own three condos on the Big Island - which we purchased as 2nd homes and vacation rentals. I tried earlier using a rental manager and had nothing but headaches with them. First of all I could only plan that they would rent 3 or 4 times a year for me. One of my units they NEVER rented. I am able to rent 70 to 75% of the year, by doing my own advertising and hiring someone to clean. I travel to the Island 8 to 9 times a year to check on my units and I have capable people from the island I call on if there is any kind of a problem when I have a renter there. I can not afford to HIRE someone else to rent for me or collect payments and pay my taxes. I keep very good records and we always collect taxes and pay them on time. My adds state what the tax is that I am collecting.

Myself like many others, are in disbelief that the State of Hawaii would treat property owners like this. We have spent hundreds of thousands of dollars on the island - upgrading our properties and always hire on line companies and contractors to do the work. For the amount of money I personally have brought into your state - and all my friends seeing what is happening - you can be assured that others will look at this and decide NOT TO BUY properties in the State of Hawaii. This bill will do nothing to increase the amount of money the state will receive in taxes, but likely there will be less.

I don't understand WHY the State can not collect the taxes owed them without passing new laws. What a waste of the tax payer's money.

Thanks for considering my testimony.

Sylvia Remington

Kathie and Manfred Wagner
Victoria, BC 250-388 5279
Property Owners on Kihei, Maui, 1299 Uluniu Road
March 26, 2012

Dear Committee Members:

Regarding HB 1706

We oppose the above bill as it will only hurt the State of Hawaii economy. We purchased our Condo Unit less than a year ago. This was an investment and a place for us, family and friends to stay, as we are non-island residents that love what Maui has to offer. When we are not there, we rent it out as a vacation rental and have collected and submit taxes for the renters who stay in our unit. As well, we employ local residents to look after housekeeping and condo maintenance and upgrades. Both our housekeeper and contractor are Kihei residents, that also collect tax from us for their work and represent us as our on-island contacts.

We support the local economy by employing local resources, including the renovations of our condo last year. When we vacation, we spend our vacation dollars in the State of Hawaii.

With the state of the economy as it is, our rates are tight to attract guests. By imposing a property manager this will add to costs, increasing rates. This will impact us by losing potential vacationers that are already tight with their dollars.

HB 1706 will cause financial stress that will in all likelihood force us to sell, taking our investment and vacation funds that we spend in the state of Hawaii, and look elsewhere for a investment\vacation property.

Sincerely,

Kathie and Manfred Wagner

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Melanie Ways
Organization: Individual
E-mail: melanieways@yahoo.com
Submitted on: 3/27/2012

Comments:

I am uncomfortable with this bill as I fear it could be amended to reach the same motive as another ill-conceived bill which required off-island owners to use a property manager or Realtor to ensure taxes are paid.

I respectfully and specifically request that the legislation not be modified to require a propert manager or Realtor.

It is critical that there be someone I can contact immediately in case of a problem when I rent from an owner but the owner should have complete latitude to determine who the contact would be. My owner does have an on-site complex manager and I also know that I can (and do) reach her directly with any concerns.

As a frequent visitor to our beautiful state, I have worked extensively directly with owners and I do not support any legislation that would require owners to use property managers or Realtors to rent their property. I have had far less satisfactory experiences with property managers than I have with direct owners! If an owner were required to use another person to rent their personal property, the costs to the owner and therefore me, will rise. I have contributed at least \$100,000 to the Hawaiian economy in my many visits and if the cost of renting in Hawaii increases, I will no longer be able to visit.

Respecfully, Melanie Ways, Lincoln, NE

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Comments Only
Testifier will be present: No
Submitted by: shane mcwhorter
Organization: Individual
E-mail: propaneshane@aol.com
Submitted on: 3/27/2012

Comments:

While the intent of the bill is good, I'm concerned that it could be changed to reflect that the rental agent be a licenses real estate professional, which I am opposed to. I believe the term rental agent should be changed to designated local contact. We have always paid the taxes required by the State. Thankyou

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Don and Christina Healy
Organization: Individual
E-mail: donhealy@pcmc.com
Submitted on: 3/27/2012

Comments:

OPPOSE

Although we agree with the intent of Bill HB1706 and support Hawaii tax collection we feel the term "rental agent" should be changed to "designated local contact". We do supply this information to our guests both in our room and prior to our guest visit during the booking stage.

We do not want the bill to be later changed to a "licensed real estate profession" and then have to absorb unaffordable costs to our small business. We do employ on island workers and do pay our taxes on a regular basis. Hawaii is also enjoying revenue from tourists that would not ordinarily have been able to afford a vacation here due to the affordable housing we offer. Hawaii should be enforcing their tax laws already on the books and not be discriminatory towards non-resident owners and give the rental management companies an unfair advantage. We are also tax payers of Hawaii and should not be discriminated against...

Thank you
Don and Christina Healy

Testimony for CPN 3/28/2012 9:30:00 AM HB1706

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Norb Wolszon
Organization: Individual
E-mail: idivedeep@aol.com
Submitted on: 3/27/2012

Comments:

Aloha. I would like to urge you to oppose this legislation. If passed this bill will do more harm than good. I strongly support paying taxes and always have. By forcing non resident owners to hire someone else to run their business is not the way to encourage tax compliance. People who wish to cheat will continue to do so. This will force many people to have to sell their Hawaiian properties because they will not be able to afford the ridiculous fees they will be forced to pay to have someone else run their business. This also discriminates against non resident owners. No one has shown any evidence that resident owners are more tax compliant than non resident owners are. Your own studies prove this. This will have a devastating affect on the already fragile Hawaiian housing market, and it will also discourage out of state investment in Hawaiian real estate. This will lower housing prices across the board which in turn will dramatically reduce property values and the property tax revenue will fall dramatically too. I agree with the intent of the bill but encourage you to look at the big picture. Hundreds of Hawaiian visitors have already stated they will not return to the islands if they are forced to pay higher rates and lose the ability to rent directly from an owner. NO management or real estate agent can provide the TLC that an owner can and they can do it at a lower rate. This leaves tourists with more money to spend on other things while visiting the islands. I know of no other state in the union that requires what you are asking us to do. Tourism will suffer and so will tax revenue. I strongly encourage you to oppose this bill now,

Mahalo for your time

H.B. 1706 H.D.1

Hearing Date: 3/28/2012

Oppose

I respectfully request that you vote No on passage of H.B. 1706 H.D.1.

H.B. 1706 H.D. 1 requires an owner of a residential apartment or unit who resides out-of-state or on a different island who leases or rents the apartment or unit to provide the managing agent or resident manager of a condominium property with the name, address and telephone number of the **RENTAL AGENT** located in the State.

I respectfully request that your replace the language of **RENTAL AGENT** with **ON-ISLAND CONTACT**.

To leave the language of Rental Agent in this Bill will take away my individual rights to control my private property.

Sincerely,

R. Stewart

Ladies and Gentlemen:

As a frequent visitor to Maui, I am writing to express my opposition to HB1706.

Requiring property owners to pay 25 - 50% of rental income to an outside company would drastically increase the rent property owners would have to charge visitors. A larger increase in lodging costs would cause my wife and me to look elsewhere to spend our vacation dollars. Hawaii vacations are already expensive luxuries and your proposed Bill would drive visitors away, including us. Nothing will be gained from this legislation.

This Bill only serves to enrich real estate agents/professional property managers at the expense of property owners who are only now beginning to recover from the decline in property values. The Bill is very destructive and, actually, quite counter intuitive. Those who are dishonest and don't pay their taxes will find a way to dodge this attempt at enforcement. You will only end up hurting the honest property owners and many good people who depend upon tourism.

Please do not pass this Bill

Sincerely,
Michael Matthews
5515 Cambria Court
Colorado Springs, CO 80918

To: Consumer Protection Committee
From: Donald G. Brattin
206 Stoneridge Estates
Branson, Mo. 65616
Subject : HB1706 HD1
Date: March 27, 2012

Aloha to all,

Thank you for taking time to consider my thoughts on HB1706 HD1.
Over the past 11 years I have lived in Maui, Florida and Missouri while renting my condos in each of those States to vacationing renters.

My first condo in Maui was rented and managed by a "Property Mgt. Co". They managed approx. 200 units. Frankly they did not rent my condo all that often. They overbooked causing chaos. At times I was told I had a ten-night rental only to find my guests had been moved leaving me with a 3-night rental. This allowed the property manager to make more money by shifting guests to fit their reservation calendar.

This cost me a lot of money! Nearly every month I was billed for small items such as light bulbs, batteries, etc. There was always something added to inflate my costs.

I moved to Maui and began renting my own condos. The Internet made this possible. The personal touch of actually speaking to a guest one on one resulted in my rentals skyrocketing. Guests feel as if they can call me for anything, and sometimes do.

The increase in rentals has resulted in more GE and TA taxes paid to the State.

I arm my guests with a ton of information. Some of it is fun and helpful but some pertains to who they should contact "on island" if there is a problem in the condo or outside. I give them information concerning doctors should they be sick or hurt. All of this information has resulted in virtually zero problems. It can be done! Recently an appliance quit. It was replaced in 2 hours by my on island contact. If I had water or electric problems my current on island contact can be there in 15 minutes.

Please consider this: Any potential "buyer" of a condo in Hawaii asks "can I rent the condo and offset the costs of the mortgage, dues, insurance etc.) Dues in our little resort run from \$500 to almost \$1000 per month depending on the condo.

We barely eek out a profit the way it is. If we are forced to pay a property manager what we have been hearing (30%- 50% of our income) owners will put their condos up for sale. Potential buyers will run away and Real Estate, GE & TA taxes will plummet! Do we really want our condo values to drop more than they have?

Ladies and Gentlemen, I agree every off island owner should have an on island contact. In my case I have several, however a "licensed property manager" is not the answer. Their costs will drive up our rental rates, which will hurt our tourism industry. A condo renting currently renting for \$269 per night will have to rent at \$376 just to attain the same profit if I am forced to hire a "licensed property manager" at 40%.

The Internet has changed everything! Guests have thousands of options. Cancun, the Caribbean and Florida are just a few and they are more affordable. This past year several of my guests who inquired about Maui rented my Florida condo because the costs of coming to Maui are out of their league. This happens in today's world.

The great majority of owners who rent their condos are honest hard working people.

We not only endorse but need an on island contact but it is not necessary for that contact to be a "licensed Property Mgr".

Owners can continue to generate valuable GE & TA taxes for the State but only if we can keep our costs low. Please allow me as well as other owners to keep our current "designated island contacts".

Donald G. Brattin