

HB2078 HD2 SD1

Measure Title: RELATING TO TAXATION.

Report Title: Transient Accommodations; Nonresident Owners

Description: Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. Effective 7/1/2013. (SD1)

Companion:

Package: None

Current Referral: TSM, CPN

Introducer(s): CHOY

<u>Sort by Date</u>		Status Text
1/19/2012	H	Pending introduction.
1/20/2012	H	Introduced and Pass First Reading.
1/20/2012	H	Referred to TOU, FIN, referral sheet 4

1/27/2012	H	Bill scheduled to be heard by TOU on Monday, 01-30-12 10:00AM in House conference room 312.
1/30/2012	H	The committee(s) on TOU recommend(s) that the measure be deferred.
2/3/2012	H	Bill scheduled for decision making on Monday, 02-06-12 11:05AM in conference room 312.
2/6/2012	H	The committees on TOU recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 9 Ayes: Representative(s) Brower, Tokioka, Awana, Choy, Evans, Hashem, Nishimoto, Tsuji, Marumoto; Ayes with reservations: none; Noes: none; and 2 Excused: Representative(s) McKelvey, Ching.
2/14/2012	H	Reported from TOU (Stand. Com. Rep. No. 310-12) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
2/14/2012	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and C. Lee, M. Lee excused (2).
2/21/2012	H	Bill scheduled to be heard by FIN on Thursday, 02-23-12 1:00PM in House conference room 308.
2/21/2012	H	Broadcast of hearing/briefing available. See: www.capitoltv.org
2/23/2012	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 17 Ayes: Oshiro, M. Lee, Choy, Cullen, Giugni, Har, Hashem, Ichiyama, Jordan, Kawakami, C. Lee, Morikawa, Tokioka, Yamashita, Marumoto, Riviere, Ward; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
3/2/2012	H	Reported from FIN (Stand. Com. Rep. No. 805-12) as amended in HD 2, 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 2 with none voting aye with reservations; none voting no (0) and none excused (0). Transmitted to Senate.
3/8/2012	S	Received from House (Hse. Com. No. 121).
3/8/2012	S	Passed First Reading.
3/8/2012	S	Referred to TSM, CPN.
3/15/2012	S	The committee(s) on TSM has scheduled a public hearing on 03-22-12

		1:15PM in conference room 224.
3/22/2012	S	The committee(s) on TSM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in TSM were as follows: 5 Aye(s): Senator(s) Kim, Kouchi, Galuteria; Aye(s) with reservations: Senator(s) Kahele, Slom ; 0 No(es): none; and 0 Excused: none.
3/23/2012	S	Reported from TSM (Stand. Com. Rep. No. 2982) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.
3/23/2012	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
3/27/2012	S	The committee(s) on CPN will hold a public decision making on 03-30-12 9:30AM in conference room 229.

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Friday, March 30, 2012
9:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 2078, H.D.2, S.D.1, RELATING TO TAXATION.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Carol Ball and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission supports the intent and appreciates the opportunity to present written testimony in opposition to a small portion of House Bill No. 2078, H.D.2, S.D.1, Relating to Taxation.

Portions of House Bill No. 2078, H.D.2, S.D.1, require any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including a condominium, apartment, or townhouse, to employ a real estate broker or salesperson licensed under Chapter 467, Hawaii Revised Statutes. However, this nonresident owner is exempt from this requirement if a tax clearance, along with its federal tax form 1099 or any other applicable tax form is submitted to the Commission.

This proposed section requires the Commission to expend unavailable resources to implement the proposed section for a segment of the population the Commission does not have jurisdiction to regulate. Furthermore, implementation of this proposed additional area of regulation will adversely impact the Department of Commerce and

Consumer Affairs, Professional and Vocational Licensing Division, and the Hawaii Real Estate Branch's already-limited resources during these difficult economic times and will adversely impact the Commission's priorities, policies, and program of work.

If this measure continues to move forward, we suggest the following amendment deleting any reference to the Commission, in subsection (e), on page 5, lines 7 - 11:

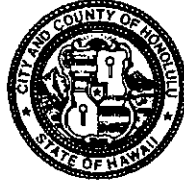
- A nonresident owner who obtains the tax clearance from the department and submits the tax clearance along with its federal tax form 1099 or any other applicable tax form to the department shall be exempt from subsection (a).

Thank you for the opportunity to provide written testimony in opposition to House Bill No. 2078, H.D.2, S.D.1.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

March 30, 2012

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

Dear Chair Baker and Members:

Subject: House Bill No. 2078, HD2, SD1
Relating to Taxation

The Department of Planning and Permitting (DPP) **supports** House Bill No. 2078, HD2, SD1, which requires a nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit or townhouse, to employ a property manager or real estate broker approved by the Real Estate Commission. The bill further requires the counties to provide relevant information about owners of permitted transient accommodations.

The DPP is responsible for the administration of the Nonconforming Use Certificates (NUC), which are issued to qualified applicants to allow for the conduct of transient vacation rental operations. Without the NUC, the use is prohibited in all zoning districts, except hotel resort. However, enforcement efforts against illegal vacation rental operations have been difficult, partly because many property owners, who are conducting vacation rental operations illegally, are nonresidents of Oahu. This makes it difficult for our inspectors to contact the homeowner. For this reason, the proposals in this bill will provide us two immediate benefits: 1) There would be a designated contact person, who should be more familiar with the City's Land Use Ordinance and the restrictions for conducting the vacation rental operations; and 2) The licensed real estate brokers will be subject to the regulatory provisions enforced by the Real Estate Commission and the State Department of Commerce and Consumer Affairs, Regulated

The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Commerce
and Consumer Protection
State Senate
Re: House Bill No. 2078, HD2, SD1
March 30, 2012
Page 2

Industry Complaints Office. This bill will serve as a catalyst for enhanced enforcement efforts between State and City agencies.

Regarding the provision of the proposed bill that the counties provide the State Department of Taxation with relevant owner information for every transient accommodation permitted in their respective county by December 31 of each year, the DPP currently provides a listing of all permitted transient accommodations at the completion of the permit renewal cycle. This information is also available at any time by selecting the following link on our webpage:
<http://honolulu.dpp.org/HotIssues/NUCreport.pdf>.

Please adopt House Bill No. 2078, HD2, SD1. Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
hb2078hd2sd1-Taxation-mf.doc



The REALTOR® Building
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Honolulu, Hawaii 96816

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Neighbor Islands: (888) 737-9070
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March 30, 2012

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

RE: H.B. 2078, H.D.2, S.D.1, Relating To Taxation

HEARING: Friday, March 30, 2012, at 9:30 a.m.

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

I am Myoung Oh, Government Affairs Director, submitting comments on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **opposes** H.B. 2078, H.D.2, S.D.1 in its current form, and prefers H.B. 2078, H.D.2 and H.B. 1706, H.D.1 with amendments.

HAR supports the position that both residents and non-residents should follow applicable laws related to their property, including the submittal of appropriate taxes to the State.

However, HAR believes that every property owner has the right to do with their property as they wish, as long as their actions are legal. Private property rights are a fundamental American principle and a major foundation of our association. We encourage all property owners to follow the law, and would suggest that the state focus on ensuring greater compliance with existing laws (not limited to the landlord tenant code, zoning code, tax laws, etc.), rather than creating an additional regulatory system.

For the foregoing reasons, rather than H.B. 2078, H.D.2, S.D.1, in its current form, HAR supports the language in H.B. 2078, H.D.2, and believes that it will increase accountability and serve as a means to yield a larger pool of tax compliant owners. H.B. 2078, H.D.2 requires that the transient accommodation registration number be displayed in all advertisements and solicitations, or that for non-resident owners, the contact information of a local agent be provided. This approach will accomplish the intended goals by:

1. Requiring non-resident owners to register with the Department of Taxation (DoTax) for a registration number to display in their advertisements; and
2. Requiring that non-resident owners provide local agent contact information in advertisements.

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HAR also supports H.B. 1706, H.D.1, with amendments, and believes that it would help with accountability of transient accommodations owned by non-residents. This bill requires non-resident owners of residential condominium units to provide the managing agent or resident manager of the condominium project with contact information of an agent located in the State who is responsible for the management of the unit.

Furthermore, HAR notes that H.B. 2078, H.D.2, S.D.1, in its current form, creates additional burdens and unintended consequences. For example:

1. Not all real estate licensees provide bookkeeping and accounting services.
2. Collection and remittance of rents and taxes are and should continue to be negotiated between the owner and managing agents. There are varying business models that cannot be captured in a one-size-fits-all scheme.
3. Real estate licensees may be in jeopardy of losing their licenses if they are involved in the management of illegal, nonconforming, or unpermitted transient accommodations.

Finally, HAR would be open to further discussions with interested parties to find a workable solution for all involved.

Mahalo for the opportunity to submit comments.



Supporting HB 2078

I have had a very small vacation rental business here in Hawaii for almost 10 years now. The Rental by Owner issues have been growing rapidly. I am for owners being able to advertise their own properties to gain more reservations, but I am against them being able to be on the "honor system" for tax payment, which us as Hawaii residents or businesses are not. I also am against unlicensed people offering licensed services.

I have testified in person a couple of times and testified in writing numerous times. There is one comment that has really stood out to me.

"We have a housekeeping company **MANAGE** our condo and they **MANAGE** hundreds of condos in our area" – Big Island Owner

That bothers me because HRS 467 defines a **real estate broker** as "any person who for compensation **MANAGES** or offers to manage any real estate as a whole or partial vocation."

Thank you for hearing our concerns regarding these issues that are problematic for the State of Hawaii and our industry.

Rob Dalton
Waikoloa Vacation Rental Mgmt.
808-987-4519
WaikoloaVRM@aol.com
www.WaikoloaVacationRentals.com



March 29, 2012

I am providing testimony in support of HB 2078 HD2 SD1.

This legislation was brought forward by licensed Tourism professionals and their companies from across the state. The majority of these businesses have less than 10 employees, and many less than 5. It has been suggested that this Bill has been advocated as an attempt by these companies to "monopolize" this market. This is not the case. This market is comprised of hundreds of small companies offering services in a ferociously competitive environment. These local small businesses, all of whom carry the costs associated with operating legally in accordance with Hawaii regulations and their licenses, have seen their businesses face a withering attack from Rent By Owners (RBO) operating over the internet unburdened by the costs associated with operating per Hawaii regulations.

These licensed Tourism professionals have identified this issue of unregulated and unlicensed RBOs operating outside of Hawaii, seeking to protect Hawaii Tourism, our visitors, protection of their businesses, tax collection, and the adverse impact of this problem upon their communities, not as a "get rich quick" scheme as some have suggested. These licensed Tourism professionals are committed to our Tourism industry, our State, and our communities. We are supporting HB 2078 to meaningfully resolve this problem, no more, no less.

This RBO problem has grown dramatically over the past 5 to 8 years, and is continuing its dramatic growth. A quick look at just one RBO website, <http://www.greatrentals.com/hi/hi.html>, shows 4005 RBO rentals listed in Hawaii presently.

Assuming annual revenues of \$40,000 per rental unit, a reasonable number based upon my 15 years of experience in vacation rental property management, the rental revenues of the units just from this one RBO rental website are on the order of \$160,200,000. The GET and TAT on this revenue amount is 13.417%, \$21,494,034. These rental revenues which are predominantly collected out of state by the RBO property owner are lost to Hawaii's GDP, since the monies are no longer collected in Hawaii. The \$160,200,000 is invisible to Hawaii Tax authorities, and what fraction of the \$21,494,034 in Hawaii Tax that is paid is unknowable. Of course, there are plenty of other RBO rental sites on the internet, and the actual number of RBO units in Hawaii is obviously far greater.

If a RBO is collecting monies outside of Hawaii, the RBO owner is effectively on the "honor system" to pay their taxes to the Hawaii Department of Finance. The Tax department, due to their lack of knowledge of these revenues, has to take what the RBO owner conveys to them at their word. In comparison, persons using licensed vacation rental property managers in Hawaii have 100% of their monies identified to the Tax department by 1099s per HRS 237D-8.5. This is similar to Hawaii residents who receive a W2 from their employer at the end of each year, which identifies their personal annual income. So from a taxpayer perspective, RBO owners collecting rental revenues for their Hawaii properties over the internet actually receive preferential treatment in the payment of tax over Hawaii citizens, and that of non-citizens with on-island management companies. None of

us are on the honor system with the Hawaii Tax department, nor is it reasonable to expect a tax authority to offer this privilege to anyone.

HB 2078 advocates that everyone have their rental revenues indisputably identified, so the same tax treatment is applied to all, and it maximizes Hawaii tax collection compliance. This is not a discriminatory approach whatsoever; it corrects the present unfairness cited previously.

There have been assertions that HB 2078 is discriminatory and/or unconstitutional since it "targets" people who are nonresident to the island their rental operations take place. This is not the case. This requirement is merely a restatement of HRS 521-43(f) from Hawaii's landlord tenant code, where the requirement is intended insure consumer protection and public safety. It is in no way discriminatory. It also suggests that the agent is not just a "name", but a person who has the authority to act if and when necessary on the behalf of the owner or landlord.

521-43(f) 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. In the case of an oral rental agreement, the information shall be supplied to the tenant, on demand, in a written statement.

With that said, Tax authorities do have the right to treat persons outside of their tax jurisdiction specifically. In the case of **FIRPTA** for the IRS or **HARPTA** for Hawaii Department of Finance, whenever a nonresident of the country or state sells their 2nd home, a percentage is withheld to insure the Tax authority receives any capital gains tax due upon the sale of the property. In these two cases the money is already in the State, and the tax authority wishes to insure its share prior to the money leaving its jurisdiction. In the case of RBO rental revenues, the monies aren't even making it to Hawaii, and the Tax authority has the right to identify the sales amount conducted in State. Clearly there is nothing in this Bill that is discriminatory or suggests Hawaii act in an inappropriate manner.

Lastly and importantly, HB 2078 HD2 SD1 fairly accommodates off island RBO operators whom are operating per Hawaii regulations such as HRS 521-43(f), and who can demonstrate that they are properly paying Hawaii Tax on the revenues that they have generated. Simply put, if someone performing RBO services demonstrates they are operating legally in Hawaii, HB 2078 permits this operation. If they can't demonstrate they are operating legally in Hawaii, HB 2078 insures that the RBO will by requiring a licensed professional to fulfill HRS 521-43(f) and HRS 237D-8.5 requirements.

There are several initiatives presently addressing these issues in the House and Senate this session. Collectively, in their combined approach, these Bills provide an excellent framework for getting this situation under control. HB 2078 HD2 SD1 itself is the lynchpin of this cohesive approach. Of these Bills, only HB 2078 insures Trust account consumer protection, provides for independent revenue identification under 237D-8.5, and importantly insures a proper agent is in place in accordance with 521-42(f) for public safety and proper visitor service.

I would strongly request that for all the good reasons cited above that HB 2078 be passed by this committee.

Dan Monck
Exclusive Getaways



Condominium Rentals Hawaii

March 29, 2012

Committee on Commerce and Consumer Protection
Senator Roslyn H. Baker Chair

Re: HB 2078 Support

Dear Senator Baker and Committee members,

I am writing to request your support for HB 2078.

Having been in the vacation rental business for 30 years, I have seen many changes in this industry. One change that has had the most impact was the advent of the internet which has resulted in rapid growth in the number of individual property owners doing their own rentals.

Many years ago, when this industry was relatively new, the state realized that some controls must be in place to protect the consumers. At that time, the state mandated that those who offer vacation rentals must be licensed real estate companies. This change provided protection to the consumers by making the rental agent accountable to the DCCA, required all customer funds to be held in a trust account and offered protection to visitors and property owners through the real estate recovery fund.

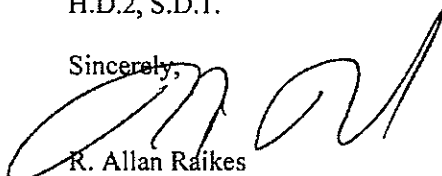
With the growth in property owners doing their own rentals, many of these protections for the consumer have disappeared. These property owners are only accountable to the guests they book, there is no requirement that the funds be held in a trust account and other than civil or criminal penalties there is no protection from loss from the recovery fund.

I am aware there is much opposition from the off island property owners to this bill, however in reading some of the testimony that oppose this I find that there seems to be a misunderstanding of how this bill will actually affect them. Many have written that they will no longer be able to do their own rentals and that the added cost of using a licensed real estate company will force them to sell.

I have not seen anywhere that this bill will prevent them from doing their own rentals. It only requires that funds from these rentals pass through a licensed real estate company. Any restrictions on doing the rentals would only come from the management company if that is their policy. The property owner is free to choose what management company they want to use and I assume this decision would be made based on what best meets their needs.

For the forgoing reasons, Condominium Rentals Hawaii supports the passage of H.B. 2078, H.D.2, S.D.1.

Sincerely,



R. Allan Raikes
President

March 29, 2012

RE: Testimony Supporting House Bill 2078

I am providing testimony in support of **HB 2078 HD2 SD**.

Managing vacation rentals is harder than anyone thinks. Issuing Keys, scheduling cleaning & maintenance, driving from property to property arranging check-ins and check-outs, collecting rental income, taxes, and security deposits are just a portion of what it takes to manage a property effectively.

Guests to Hawaii deserve the best experiences possible, especially if the owner is not on-island to provide the necessary support to manage their transient rental. The State of Hawaii needs these guests to have exceptional experiences here so they continue to return to the islands and support our local economies. The best ways to ensure this happens is to have a licensed agent, bound by HRS 467 manage the rentals owned by off-island persons.

Passing SB 2089 will not only help in raising the standards for guests to the islands who enjoy our vacation rentals, it will also protect their funds as all monies paid to licensed agents are placed in the manager's Client Trust Account. Further, having a property manager collect, hold, and disperse the funds means that these rental incomes become visible to the State.

When out-of-state owners rent their properties via the internet chances are that they are not putting the funds in a secure trust account, and that they are not reporting the transaction to the State, making the tax authorities effectively blind to this revenue. This is not a position a State Tax agency can allow itself to be in.

Property managers here on Oahu and throughout the state have stiff competition. We work on ever decreasing margins to remain competitive. I can attest to the fact that on Oahu most of us work on just a 15-20% commission structure. Those who charge more tend to be in the luxury market where more services are offered, or in places where the cost to do business is much higher.

The majority of the local management businesses have less than 10 employees, and many less than 5. This market is comprised of hundreds of small companies offering services in a ferociously competitive environment. These local small businesses, all of whom carry the costs associated with operating legally in accordance with Hawaii regulations and their licenses, have seen their businesses face a withering attack from Rent By Owners (RBO) operating over the internet unburdened by the costs associated with operating per Hawaii regulations.

Licensed property managers offer excellent value and service not only to our owners that we represent, but also to the guests that come to visit. When owners seek to rent their property on their own, without charging taxes, we can't compete, and it hurts everyone: The State, the small management companies, and potentially the guest who books with an off island owner.

From a tax perspective, the Bill is not advocating increasing a tax, or levying a tax against one person and not another, it permits the State of Hawaii to insure that RBO owners pay taxes on their rental revenues just like everyone else by insuring all of their rental revenues are recorded by a trusted third party, a licensed real estate property manager.

Mahalo,
Kristin Counter

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Kim Horton
Organization: ResorticaHawaii.com Inc.
E-mail: kim@resorticahawaii.com
Submitted on: 3/29/2012

Comments:

I am providing testimony in support of HB 2078 HD2 SD1. This legislation was brought forward by licensed Tourism professionals and their companies from across the state. The majority of these businesses have less than 10 employees, and many less than 5. It has been suggested that this Bill has been advocated as an attempt by these companies to "monopolize" this market. This is not the case. This market is comprised of hundreds of small companies offering services in a ferociously competitive environment. These local small businesses, all of whom carry the costs associated with operating legally in accordance with Hawaii regulations and their licenses, have seen their businesses face a withering attack from Rent By Owners (RBO) operating over the internet unburdened by the costs associated with operating per Hawaii regulations.

These licensed Tourism professionals have identified this issue of unregulated and unlicensed RBOs operating outside of Hawaii, seeking to protect Hawaii Tourism, our visitors, protection of their businesses, tax collection, and the adverse impact of this problem upon their communities, not as a "get rich quick" scheme as some have suggested. These licensed Tourism professionals are committed to our Tourism industry, our State, and our communities. We are supporting HB 2078 to meaningfully resolve this problem, no more, no less.

HB 2078 advocates that everyone have their rental revenues indisputably identified, so the same tax treatment is applied to all, and it maximizes Hawaii tax collection compliance. This is not a discriminatory approach whatsoever; it corrects the present unfairness cited previously. There have been assertions that HB 2078 is discriminatory and/or unconstitutional since it "targets" people who are nonresident to the island their rental operations take place. This is not the case. This requirement is merely a restatement of HRS 521-43(f) from Hawaii's landlord tenant code, where the requirement is intended insure consumer protection and public safety. It is in no way discriminatory. It also suggests that the agent is not just a "name", but a person who has the authority to act if and when necessary on the behalf of the owner or landlord. **521-43(f) 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. In the case of an oral rental agreement, the information shall be supplied to the tenant, on demand, in a written statement.**

With that said, Tax authorities do have the right to treat persons outside of their tax jurisdiction specifically. In the case of **FIRPTA** for the IRS or **HARPTA** for Hawaii Department of Finance, whenever a nonresident of the country or state sells their 2nd home, a percentage is withheld to insure the Tax authority receives any capital gains tax due upon the sale of the property. In these two cases the money is already in the State, and the tax authority wishes to insure its share prior to the money leaving its jurisdiction. In the case of RBO rental revenues, the monies aren't even making it to Hawaii, and the Tax authority has the right to identify the sales amount conducted in State. Clearly there is nothing in this Bill that is discriminatory or suggests Hawaii act in an

inappropriate manner. Lastly, and importantly, HB 2078 HD2 SD1 fairly accommodates off island RBO operators whom are operating per Hawaii regulations such as HRS 521-43(f), and who can demonstrate that they are properly paying Hawaii Tax on the revenues that they have generated. Simply put, if someone performing RBO services demonstrates they are operating legally in Hawaii, HB 2078 permits this operation. If they can't demonstrate they are operating legally in Hawaii, HB 2078 insures that the RBO will by requiring a licensed professional to fulfill HRS 521-43(f) and HRS 237D-8.5 requirements.

There are several initiatives presently addressing these issues in the House and Senate this session. Collectively, in their combined approach, these Bills provide an excellent framework for getting this situation under control. HB 2078 HD2 SD1 itself is the lynchpin of this cohesive approach. Of these Bills, only HB 2078 insures Trust account consumer protection, provides for independent revenue identification under 237D-8.5, and importantly insures a proper agent is in place in accordance with 521-42(f) for public safety and proper visitor service.

I would strongly request that for all the good reasons cited above that HB 2078 be passed by this committee.

Rental By Owner Awareness Association

110 Kaanapali Shores Pl., #1111

Lahaina, HI 96761

800-811-1467

March 29, 2012

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

RE: HB2078 HD2, SD1

HEARING: Friday, March 30, 2012, at 9:30 a.m.

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

We strongly oppose HB2078 and the other 4 related bills. We have questions regarding the feasibility and the necessity of the follow statements listed on the HB2078_SD1_SSCR2982_committee report.

- (1) Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a licensed real estate broker or salesperson;

Why is there a need for a licensed real estate broker or salesperson? Do we need another layer of compliance? Why is a HI real estate professional better than any other states real estate professionals? The state has reciprocal agreements with most states. What about a lawyer, CPA, enrolled agent etc.?

All owners are required to pay taxes, it is their duty. If they do not hold up to their duty, a fine is imposed. Why not enforce current laws?

It is completely legal for a non real estate owner to sale or rent their property on their own. Why is it different for a non resident owner on a transient accommodation?

- (2) Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator;

Why is it necessary to limit the owners' right of choice? Why are condo hotel operators better than others? They often overbook units and send people to units that are not satisfactory, they wholesale units and charge owners a 40% - 50% fee of this wholesale price. Is it fair to force this on owners who happen to own in a condo hotel?

(3) Requires relevant information about owners who may be leasing their property as transient accommodations, to be provided to the Department of Taxation for enforcement purposes;

Who is supplying this information? Do they have the manpower to handle supplying information?

Is the much larger issue (the legality of zoning and permitting? If so, this is an enforcement issue and not a tax issue.

(4) Requires the counties to provide the Department of Taxation with relevant owner information about every transient accommodation permitted by the respective counties annually;

Maui County has this information listed on the internet, why add another layer of reporting?

(5) Requires the Department of Taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations;

Is there man power to deal with this? Per the Audit of the DoTax done in 2010 the department is in poor shape and would not be able to handle such a large volume of requests. We have heard many people state they are having problems obtaining a GET/IAT number issued in a timely fashion and the booklets to pay the taxes.

(6) Establishes fines for noncompliance;

Non compliance to whom and for what?

(7) Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances;

This needs to be specified and are there resources to accomplish this? Attached is an application request for a tax clearance dated 3/3/2010. It states that it should take 7 -10 days. It has been over 23 days and no clearance has been issued. What happens when thousands of owners request this?

(8) Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation; and

We believe this measure is a good consumer protection measure.

(9) Makes technical, nonsubstantive amendments for the purposes of clarity and

consistency.

No comment

In Summary:

There are many laws currently in place that can handle most of the issues addressed in this bill and there needs to be enforcement. Education needs to be used in an effort to put everyone into tax compliance.

Thank you for the opportunity to offer these comments.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Alicia Hopkins", with a long horizontal flourish extending to the right.

Alicia Hopkins, President
RBOAA

STATE OF HAWAII — DEPARTMENT OF TAXATION
**INSTRUCTIONS FOR FORM A-6
TAX CLEARANCE APPLICATION**

*Rented by owner
Amnass Association
Attachment #2*

GENERAL INSTRUCTIONS

- This form is used to obtain a **State Tax Clearance**. (If you are reporting a bulk sale of business assets, you must also complete and attach Form G-8A, Report of Bulk Sale or Transfer.)
- This form may only be used to obtain a **Federal Tax Clearance** for the purpose of liquor licensing or entering into contracts/submitting bids with and/or seeking final payment of contracts from state or county agencies in Hawaii. Contractors winning the bids are not required to have their subcontractors obtain a tax clearance.
- The current version of Form A-6 must be used. Type or print clearly with a pen. After approval, the front page of the application will be your tax clearance certificate.
- Applications (Form A-6) are available at Department of Taxation and Internal Revenue Service (IRS) offices in Hawaii, and may also be requested by calling the Department of Taxation on Oahu at 808-587-4242 or toll free at 1-800-222-3229. This form can be downloaded from the Department of Taxation's website (www.hawaii.gov/tax).
- Vendors selling goods and services to state or county agencies may register with the Hawaii Compliance Express and have their tax clearance status available on-line for state or county contracts. For more information, go to <https://vendors.ehawaii.gov>.

LINE-BY-LINE INSTRUCTIONS

Line 1 — Applicant Information

Applicant's Name. — Enter your legal name. The name appearing on your application must match the name on file with the State Department of Taxation, IRS, and, if applicable, the State Department of Commerce and Consumer Affairs.

Address. — Enter the address to which correspondence regarding this application for tax clearance should be mailed. In most cases, the address should be that which is on file with the Department of Taxation and/or IRS.

DBA (Doing Business As)/Trade Name. — If you have a trade or business name which is different from your legal/registered name, enter that name here.

Line 2 — Tax Identification Numbers

Hawaii Tax ID #. — Enter your Hawaii tax identification number. Enter "NONE" if you do not have one.

Federal Employer ID #. — Enter your 9-digit federal employer identification number (FEIN). Enter "NONE" if you do not have one.

Social Security #. — If you are an individual/sole proprietor, enter your social security number (SSN).

Line 3 — Applicant is a/an

Check the box which best describes your entity type.

If you are a Single Member LLC disregarded as separate from the owner, enter the owner's FEIN/SSN in the space provided.

If you are a Subsidiary Corporation, enter the parent corporation's name and FEIN in the space provided.

Line 4 — The Tax Clearance is Required For

Check the box(es) which correspond to your reason(s) for obtaining the tax clearance. The asterisks (**) indicate reasons for which a state and federal clearance is required.

Check the "Other" box if you are required to obtain a tax clearance for the credit for school repair and maintenance or for the purchase of cigarette tax stamps at the reduced rate.

Line 5 — No. of Certified Copies Requested

Enter the number of certified copies you are requesting. Please retain the copy of the tax clearance that is stamped with the green certification stamp. When you require additional copies prior to the expiration date of the tax clearance certificate, submit the copy of the tax clearance that is stamped with the green certification stamp with a request for the number of copies required. Each copy will bear an original green certified copy stamp. Photocopies of the original green certified copy stamped Form A-6 will be invalid.

Line 6 — Signature

Signature. — The application must be signed by an individual/sole proprietor/owner, trustee, executor, corporate officer (president, vice-president, secretary, treasurer, etc.) or general partner or member. An employee of your company or authorized agent may sign the application if he/she possesses a valid power of attorney. Power of attorney forms are available at the Department of Taxation (Form N-848) and IRS (Form 8821 or Form 2848) as indicated on page 1 of the application. Unsigned or unauthorized signatures on applications will be returned.

Print Name. — Enter the name of the person signing the application.

Print Date/Telephone/Fax/Title. — Enter the date the application is signed, and the telephone/fax number which the Department of Taxation or IRS can call during business hours should any questions arise while processing the application for tax clearance. Also enter the title of the person signing the application.

Line 7 — City, County, or State Government Contract

Indicate whether you are submitting a bid for a contract, entering into a contract, have an ongoing contract, completing a contract, and/or waiting for final payment on a contract.

If you are requesting a tax clearance for a completion/final payment of contract, please provide the name, agency, and telephone number of the contact person at the State or County Agency in the spaces provided.

Line 8 — Liquor Licensing

For liquor licensing purposes, indicate whether you are applying for an initial liquor license, renewing your current liquor license, transferring a liquor

license, or applying for a one time special event license.

Please Note: If you are renewing your liquor license or transferring the business to another entity (or person), the federal tax clearance requires compliance with the Bureau of Alcohol, Tobacco, and Firearms (ATF).

Line 9 — Contractor Licensing

Indicate whether you are applying for your initial contractor's license or renewing your current license.

Line 10 — State Residency

Enter the date you arrived in the State of Hawaii or returned to the State of Hawaii if your reason for applying is residency status.

Line 11 — Accounting Period

If you file your tax returns on a calendar year basis (1/1 — 12/31), check the first box. If you file your tax returns on a fiscal year basis other than a calendar year, check the second box, and enter the month and day your fiscal year ends. For example, a corporation whose tax year is July 1st through June 30th would write "06/30" on the line provided.

Line 12 — Tax Exempt Organization

Tax exempt organizations must enter the Internal Revenue Code section that applies to your exempt status. For example: IRC §501(c)(3). Also, check the box to indicate whether your organization files federal Form 990, Return of Organization Exempt from Income Tax; federal Form 990-T, Exempt Organization Business Income Tax Return; or none of the above.

Line 13 — Individual

If you are an individual/sole proprietor who is married, enter your spouse's name and social security number on the lines provided.

Line 14 — If You Do Not Have a General Excise Tax License and Require a Tax Clearance for a Government Contract

If you do not have a general excise tax license and require a tax clearance for a government contract, you must complete this section. Contact the State Department of Taxation if you have additional questions. Refer to page 2 of Form A-6 for the telephone number or mailing address.

Line 15 — Filing the Application for Tax Clearance

Applications may be submitted either in person, tax or by mail. Mailing addresses for the State Department of Taxation and the IRS are provided on page 2 of the application.

A "mailed-in" tax clearance application generally takes 10 - 15 business days to process.

If all required returns have been filed and all required taxes, penalties, and interest have been paid, a "walked-in" tax clearance to any district tax office will generally be processed the same business day.

Form A-6 also can be filed electronically through the State's internet portal. An electronically filed tax clearance application generally takes 10 - 15 business days to process. For more information, go to www.ehawaii.gov/efile.



DEPARTMENT OF
TAXATION

*Revised By Owner
Address Associated
Attachment #2*

Previous Filings

[Back](#)

Filing ID	Description	File Date	Tax Amount	Total Amount	Payment Status	
2420212	Form A-6: Tax Clearance Application	03/03/2012	\$0.00	\$0.00	N/A	View Filing
2306436	Form TA-2: Transient Accommodations Tax Annual Return & Reconciliation GEID: W40892854-01	01/17/2012	\$0.00	\$0.00	N/A	View Filing
2306419	Form G-49: Annual Return & Reconciliation of General Excise /Use Tax Return GEID: W40892854-01	01/17/2012	\$0.00	\$0.00	N/A	View Filing
2306166	Form TA-1: Transient Accommodations Tax Return GEID: W40892854-01	01/17/2012	\$1557.52	\$1558.52	Paid	View Filing
2306132	Form G-45: General Excise/Use Tax Return GEID: W40892854-01	01/17/2012	\$673.52	\$674.52	Paid	View Filing
2127284	Form TA-1: Transient Accommodations Tax Return GEID: W40892854-01	10/13/2011	\$1499.43	\$1500.43	Paid	View Filing
2127259	Form G-45: General Excise/Use Tax Return GEID: W40892854-01	10/13/2011	\$648.40	\$649.40	Paid	View Filing
1989008	Form TA-1: Transient Accommodations Tax Return GEID: W40892854-01	07/18/2011	\$1347.82	\$1348.82	Paid	View Filing
1988995	Form G-45: General Excise/Use Tax Return GEID: W40892854-01	07/18/2011	\$582.84	\$583.84	Paid	View Filing
1988979	Form TA-1: Transient Accommodations Tax Return GEID: W40892854-01	07/18/2011	\$0.00	\$0.00	N/A	View Filing
1988974	Form G-45: General Excise/Use Tax Return GEID: W40892854-01	07/18/2011	\$0.00	\$0.00	N/A	View Filing
1700352	Form TA-2: Transient Accommodations Tax Annual Return & Reconciliation GEID: W40892854-01	01/30/2011	\$0.00	\$0.00	N/A	View Filing
1700333	Form TA-1: Transient Accommodations Tax Return GEID: W40892854-01	01/30/2011	\$1056.17	\$1057.17	Paid	View Filing
1700328	Form G-49: Annual Return & Reconciliation of General Excise /Use Tax Return GEID: W40892854-01	01/30/2011	\$0.00	\$0.00	N/A	View Filing
1700318	Form G-45: General Excise/Use Tax Return GEID: W40892854-01	01/30/2011	\$482.76	\$483.76	Paid	View Filing

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Southland Real Estate Group

Organization:

E-mail: chad1767@gmail.com

Submitted on: 3/28/2012

Comments:

All of us in our organization oppose HB2078.

This bill is NOT good for our State. After speaking with several attorneys, they all have concluded that this bill is discriminatory and against our constitution. Please vote against this bill and tell our out of state owners to come and invest in our state. This bill will only push away those out of state owners that come and invest in Hawaii.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

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 HB2078 HD2 SB1 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 not 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 vacation rental 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 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:

I am writing to voice my OPPOSITION to HB2078 and any other bills that are being considered by the State of Hawaii which will prohibit owners of rental properties to continue to manage and rent their properties on their own.

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 their 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 an on-island contact person for guests to contact in case of emergencies or questions.

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 would support giving those who abide by the rules some sort of badge or official seal with our tax ID# to add to our websites so that it is apparent that we are following the rules. It might even be good for our image. and increase business.

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

Aloha and Mahalo,
Marilyn Hybiske
Sunset Shores Maui
www.SunsetShoresMaui.com
P.O. Box 546, Sonoma CA 95476

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jim Hybiske
Organization: Sunset Shores Maui
E-mail: jimhy@sbcglobal.net
Submitted on: 3/29/2012

Comments:

I want to voice my strong OPPOSITION to HB2078 and any other bills that are being considered by the State of Hawaii which will prohibit owners of rental properties to continue to manage and rent their properties on their own.

We formerly used a management company to rent our condo. While it was convenient and less work for us, we were dissatisfied by the low rental rates that they insisted upon, the 30% management fee, their lack of appropriate advertising, and our occupancy rate. Their maid service wasn't as good as the one we currently use and our condo was lost among the condos they rented. Our guests had no personal contact with us, the owners, 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 our own, we have raised our rental rates by 25%, eliminated their 30% management fee, improved our advertising choices, and use a much more professional maid service. Consequently our occupancy rate has gone way up. Our guests like to deal with us, the owners, as we can provide individualized suggestions to make their stay on Maui the best it can be. We have many reviews supporting this on my VRBO listing (VRBO.com/215504). We have an on-island contact person for guests to contact in case of emergencies or questions.

Renting on our own is bringing in more money to the State via the GE/TA taxes that we pay and it allows us to be a member of the HVCB and good ambassadors for Maui-it is a win-win situation for all of us. Taking this choice away will reduce our income, which will reduce the amount of GE/TA taxes that we pay, reduce the personalized Aloha experience that we provide to our guests, reduce the amount of dollars that we are now able to spend locally on furnishings and amenities. In addition, I 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 understand 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.

We paid over \$10,000 last year in GE and TA taxes. The State received every dollar to which they were entitled. We have no problem paying the taxes owed, but

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim and Sue Keithahn

Organization: Valley Isle Resort Rental Owners Group

E-mail: ValleyIsleResort@aol.com

Submitted on: 3/29/2012

Comments:

We OPPOSE HB2078 SD1. This bill is being pushed through without regard for its legality, its need, its impact on Hawaii tourism, small businesses, jobs, and the Hawaii economy, its potential impact on real estate values and subsequent loss of property taxes, and the inability for anyone to comply with what information appears on EVERY advertisement on the Internet.

Listen to the Hawaii Attorney General, the HVCB, and those familiar with the workings of the Internet and current travel trends and vote NO on this dangerous bill.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tracy Whitmore
Organization: Individual
E-mail: whit11@me.com
Submitted on: 3/29/2012

Comments:

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.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Matthew Zarka
Organization: Individual
E-mail: mzarka2@cox.net
Submitted on: 3/29/2012

Comments:
This bill limits free enterprise

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: BARBARA LANGE
Organization: Individual
E-mail: MAUILANGE@MSN.COM
Submitted on: 3/29/2012

Comments:
Please reconsider this legislation. It does not benefit anyone but the realtors/property managers. I pay my taxes and spend alot of time making sure my guests are happy while visiting my property. They have contact with us via e-mail and phone 24/7. We already give an on island contact. This measure is something that would hinder our business because our profit margin is nil with us doing the work. To have to employ a stranger,as we have in the past, we lose money on some rentals and lose control over our own property. Passing this measure would violate any rights we should have. Since we pay our taxes, it seems quite punitive if the object is to collect taxes from those who don't pay. *****Perhaps, when guests arrive in Hawaii or perhaps when they leave they should pay the state a "head tax"/per day which would guarantee that the state collects from all and not just the honest. If you can show state ID that you reside in Hawaii/own property, you would be exempt. You could actually employ people to collect this head tax at the airport and ports just like custom officers in other countries. Hawaii would no doubt collect more tax money than ever.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: GREGORY LANGE
Organization: Individual
E-mail: MAUILANGE@MSN.COM
Submitted on: 3/29/2012

Comments:

*****Perhaps, when guests arrive in Hawaii or perhaps when they leave they should pay the state a "head tax"/per day which would guarantee that the state collects from all and not just the honest. If you can show state ID that you reside in Hawaii/own property, you would be exempt. You could actually employ people to collect this head tax at the airport and ports just like custom officers in other countries. Hawaii would no doubt collect more tax money than ever.

Please reconsider this legislation. It does not benefit anyone but the realtors/property managers. I pay my taxes and spend alot of time making sure my guests are happy while visiting my property. They have contact with us via e-mail and phone 24/7. We already give an on island contact. This measure is something that would hinder our business because our profit margin is nil with us doing the work. To have to employ a stranger,as we have in the past, we lose money on some rentals and lose control over our own property. Passing this measure would violate any rights we should have. Since we pay our taxes, it seems quite punitive if the object is to collect taxes from those who don't pay.

CPNTESTIMONY@CAPITOL.HAWAII.GOV

RE: HB 2078, HD2, SB1

I am the owner of a vacation rental. I am also a Hawaii resident and have been for almost 14 years. Let me repeat, I am a Hawaii resident, and I am astounded and disturbed by this bill. What are we thinking? Yes, I realize this bill does not affect me as a vacation rental owner, but it sure as heck affects me as a resident on so many levels.

The short sightedness of this bill perplexes me. I have asked myself repeatedly, "Who benefits?" To date, my only reply is real estate agents and property managers. Everyone else loses, including every resident of Hawaii!

When I first heard rumors of this bill over two years ago, I was told the goal was to make sure that *all vacation rental owners* paid their GE and TA taxes.

That seemed like an admirable and healthy goal. Occasionally I have been asked by perspective renters not to charge them tax. When I told them this was not possible, they indicated some owners they had contacted were not charging tax. Trust me when I say I have no reason to believe this kind of cheating is limited to mainland vacation rental owners. I patiently explained to the would-be renters that anyone who is not collecting tax is cheating all Hawaii residents for it is these very taxes that support our government and programs.

I had assumed bill SB 2089 would apply equally to everyone and target all those who has not been paying GE and TA taxes or who could not prove they have paid these taxes whether they live on the mainland or are Hawaii residents. SB 2089 doesn't accomplish this at all. In fact, this bill provides no provision for or recognition of those who can prove they have diligently paid their taxes. Instead, law abiding citizens receive a proverbial kick in the teeth. I predict many vacation rental owners will try to sell out and move their rental business elsewhere. If they can't sell, they will switch to long term rentals until they can sell. This means, rather than collecting more tax revenue, Hawaii will forfeit a good many of the GE and TA taxes they have been collecting. And what is the impact of this bill on Hawaii residents? As vacation rental owners sell, close down, or turn to long term rentals, jobs will be lost, store revenues will decline, and fewer taxes, *not more*, will be collected. In turn more state and county programs will be curtailed or eliminated. Is this truly what we need? Surely, this isn't what we want. How many programs have been cut already due to low tax revenues? Yes indeed, this bill affects me and every other Hawaii resident!

I would be happy to work with those in charge to come up with a plan that assures taxes will be paid, a plan that will penalize *only* those who have not been paying their GE and TA taxes. As this law now stands, Hawaii would become a state that discriminates against those who have complied with our laws. Is that the image we want project to the rest of the country? What great PR that will be, and believe me, with twitters and tweeters, face book and email, word will get out. Moral people will look elsewhere when making vacation plans.

For several years there has not been much profit, and often no profit, in the vacation rental business. If I had to pay a property manager, I would have no option but to close my rental, which would significantly affect the income of the various workers, repairmen, and cleaning personal who work for me. I would no longer be buying supplies for my rental and this would impact sales at a number of local stores. And finally, I would no longer be contributing GE and TA taxes. Now imagine the joint impact the closing of hundreds upon hundreds of vacation rentals will have on our economy.

I think I'm perceptive enough to understand exactly how mainland owners are feeling and how they will respond. I believe if we persist in the passage of this law we will find many owners putting their properties up for sale. You must know that we do not have buyers for the vast majority of properties currently on the market. I sure wouldn't hold my breath expecting someone to buy and continue to operate most of the vacation rentals that will be added to the "for sale" lists. There's just not that much money in it right now. The vacation rental by owner business is a huge one with a huge following. The people who rent from owners want to rent directly from owners for all the obvious reasons. If Hawaii doesn't offer this option, those tourists are not going to simply switch to management companies any more than avid Bed and Breakfast travelers would switch if you closed down a large portion of all B&B's. Travelers will merely look elsewhere when planning vacations, and visit those states and countries that still allow vacation rentals by owners.

As a Hawaii resident, I am embarrassed and ashamed by SB 2089. I believe most mainland owners of vacation rentals are honest and comply with our laws. So again I ask, what are we thinking? Please stand as a representative of the residents of Hawaii and vote against SB 2089. This bill isn't what we stand for, it isn't who we are.

Respectfully,

Samantha Payne, Ph.D.
Keaau, HI 96749
966-6292
sampayne@hawaii.rr.com

March 29, 2012
Honorable Legislative Members,

I am writing to you to express my opposition to **HB 2078 HD2 SD1 Amended**.

A few years ago my family formed a partnership with my in-laws and extended family to purchase a condo on Maui for everyone to enjoy. A total of five families were brought together in this venture that allowed us to enjoy the beauty of the Hawaiian islands for a few weeks at a time. During the extended periods when we were not using it for our own enjoyment we used VRBO and a local real estate agent to find occupants. Over time we discovered we were much more successful finding renters using the internet than was the real estate agent. For every 9 renters we found using VRBO the realtor found 1. We had instances when our property was not ready for new tenants or had even been double-booked. Eventually we turned exclusively to VRBO to find renters.

The current proposal will force us to pay for a service that we determined, on our own, does not work in our best interest. During this economic crisis we have recorded repeated years of losses on our investment while continuing to find the necessary capital to keep the condo in good repair for prospective tenants, pay the mortgage, property taxes and all of the other expenses. The additional expenses that this legislation will impose on us will force us to increase the rents we charge and will deter prospective renters from coming to Hawaii. The economic recovery is finally starting to have a positive impact in Hawaii and buy forcing rates to go up for condo renters will slow down matters down. To have another slowdown could force those of us who were able to ride out the 'Great Recession' to default on our loans, too. This will lead to a flooding of foreclosed properties into the market thereby forcing home prices even lower than they are today.

We have dutifully paid all of our taxes and fees to the state of Hawaii and to the federal government while we have owned this condo. To punish us for the scofflaws that shirk their responsibilities is very unfair. The state has a responsibility to its residents to dutifully collect the requisite taxes it is owed and to enforce its tax laws. It is unfair to target non-resident property owners with additional expenses for the state's revenue shortfall.

This legislation will also be a windfall for property managers and realtors at our expense. While they, too, have suffered from the slowdown their recovery should not be goosed to health with assistance from the state. Their recovery should be determined the same way it is for me and other property owners. That is, through the free market.

We have a trip planned to Maui this summer and would hate for it to be the last. In the short time we have owned the condo we have really come to love Hawaii's culture and its history. We love its people, natural beauty and lifestyle that when we prepare to return to the mainland we are already thinking about our next trip back. We love it that much!

Those of us that have managed to rent out our condos independent from using property managers and realtors should not be forced to pay for services that we do not need or want. I hope you can understand our position and also the long-term impact on the Hawaiian economy before you decide to move forward with this terrible piece of legislation.

Mahalo for your time and understanding.

Corrado Fabbro
1697 Madeira Circle,
Petaluma, CA 94954
707-773-1634

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Corrado Fabbro
Organization: Individual
E-mail: casafabbro@comcast.net
Submitted on: 3/29/2012

Comments:
March 29, 2012
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Corrado Fabbro
1697 Madeira Circle,
Petaluma, CA 94954
707-773-1634

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Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tania Humphrey
Organization: Individual
E-mail: purpletania@yahoo.com
Submitted on: 3/29/2012

Comments:

I've been reading some of the testimony from previous hearings, and learning that some Property Managing Companies are asking for this law because they have been loosing owners in their programs, losing money, and having to lay off workers. This bill should not be passed if the 'hidden' intent is to help increase the revenues is property managers. That would be supporting one group over the other. Additionally, private owners have hired the workers laid off by the project managers (PMs). I personally have hired a cleaner, maintenance man, and a guest greeter. I personally pay my cleaner between \$125 to \$140 per cleaning, which is far more then the minimum wage the project management companies pay their cleaners. The workers I hire are grateful to no longer have to work for the PMs, because they make more money working directly for the owners. All my workers pay income taxes and I file yearly 1099s. This is a benefit to Hawaii, not a drain. Also, because we are able to offer visitors with cheaper rates because we don't have to pay PMs 25 to 50% off the top, more people can afford to visit Hawaii, and spend more money while their here.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Joan
Organization: Individual
E-mail: jkranich@hotmail.com
Submitted on: 3/29/2012

Comments:

Renting directly from the owner of the home is a successful and positive experience. We did also pay tax. In saving the money that would be paid to a property manager we were able to visit beautiful Maui and stay longer because it was affordable. While there we spent money on tours, restaurants, and shopping - a win situation for us and your state.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jerald Dunlap
Organization: Individual
E-mail: jvdunlap@verizon.net
Submitted on: 3/29/2012

Comments:
HB2078 HD2, SD1 Amended

Comments:
Please do not pass this bill requiring owners to employ a real estate agent in order to rent their property.

I have rented my condo home for 11 years and paid the TAT and GET taxes every month. The rentals help the State of Hawaii and have enabled me to continue to own my home. Forcing me to employ a real estate agent whom I don't know would be a disaster for me. The details of renting and using my home are involved and an unrelated agent would not be able to advise, direct and negotiate successfully with a client. I am able to rent it out because I am the owner and I deal personally with the clients. I would also have to give a big percentage of the rent to an agent who has done virtually nothing and which I cannot afford

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: SL Adams
Organization: Individual
E-mail: maprows@aol.com
Submitted on: 3/29/2012

Comments:
Aloha~
I am writing to OPPOSE HB 2078 and this bill should be stopped immediately!

The Tourist industry is number #1 in the islands.

I have been doing vacation rentals for many years and I do a better job than management companies that "cattle car" the guests through without them experiencing a single drop of the Aloha Spirit!!!!

I had previously worked with management companies and they paid NO attention to our guests and often HAD NON PAYING GUESTS IN OUR PLACE!!!! Yes that is correct...and they did NOT PAY TAXES AS THEY WERE NOT REGISTERED!!!!

I don't ever want to go back to that horrible position!!

We are all working twice as hard to hold on to our properties which means we turn ourselves inside out to please our guests so that they will return.

You pass this bill and see what happens to the thousands of folks WHO WILL BE OUT OF A JOB in this beautiful state of Hawaii!!!

Tourism will go flat because the guests will stop coming and homeowners will flee the state from the violation of rights owners imposed on owners!!!

I already have a cleaning crew...maintenance crew...WHY WOULD I NEED A MANAGEMENT COMPANY??

And who's idea is this in the first place???

Our economy is very fragile and please do not be the ones to hurl this ENTIRE STATE OF HAWAII INTO FINANCIAL CHAOS!!

Please~ give this serious thought and let your conscience be your guide.

You will have to live with the consequences of any actions which harm the residents of the State of Hawaii!!!

Please vote NO on SB 2078.

Mahalo~

SL Adams

My wife and I request that you oppose the passage of SB2078 HD2, SD1 Amended for the following reasons:

- 1) Many laws already exist that enforce tax compliance.
- 2) Existing laws already contain strong penalties for noncompliance.
- 3) Compliance with the proposed legislation will be overly costly to small homeowners such as ourselves.
- 4) The proposed legislation will not withstand judicial review on constitutional grounds because
 - a) it discriminates against nonresidents and
 - b) it basically charges a non-optional fee to collect a mandatory tax.

We've paid our taxes for years. Increase penalties for those that don't, but don't punish those that do.

Thank you in advance,

Paul & Patti Columbus
Valley Isle Resort Unit 109

4327 Lower Honoapiilani Road
Lahaina, HI 96761

Government was established for the physical protection of the people, not to protect them from making dumb choices. If you pass this bill, you are simply making big government bigger and overstepping your bounds. Please oppose this bill. As a frequent traveler, I have never been scammed by a property owner. If it should happen, that's my problem, not yours.

Elizabeth Christensen
Sent from my iPad

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert Rubin
Organization: Individual
E-mail: rmalibu@charter.net
Submitted on: 3/29/2012

Comments:

Support paying tax - but are opposed to inserting property managers or realtors into the equation. I think this bill is unconstitutional in that it only targets non-resident owners. I believe this will adversely effect the housing market and specifically benefits property managers. enforcement of existing tax laws should be the aim not targeting non residents who dutifully pay their taxes

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 AOAO 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

To Whom It May Concern,

I am writing this email to ensure that my opposition to this bill is clear and heard. I live in AK and love coming to HI (especially Maui) during our long winter months. I have rented from property owners many many times and have always had a wonderful experience. They understand that they need to keep clients like me happy and satisfied or they will not get repeat business. The websites that they use give us consumers the ability to rate and review the experience we had. There is no need to add a Real Estate Property Manager or any type of property manager. The owners of the properties manage them wonderfully, as in my experience they have always been clean, available and ready to enjoy. Adding another Property Manager is basically a tax that is not needed and one that will drive many consumers like me to look for other places to vacation. HI is already one of the more expensive sun/sand vacations and adding this unnecessary tax will drive that cost up to the point that it may become unaffordable which would be a tragedy for Maui and HI as we spend 5 to 10x the amount of money we pay for accommodations on other Maui products and services during our stay.

I appreciate your time and hope you vote no on this bill. It is not needed and will do immediate damage to your local economy.

Take care,

Corey Kemp

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:

As written - with no protection for the owner-consumer we must respectfully oppose this legislation.

Bills to protect consumers of vacation rental accommodations, be they owners or visitors, already exist. This bill would seem to create a new problem for protection by forcing an owner to employ a real estate broker or salesperson. It removes from the owner the right to rent their own property as defined in HRS 521 and HRS 467 - it no longer gives an option to employ a CARETAKER or AGENT as defined in those laws and there are no safeguards for the owners forced to hire real estate brokers. There are numerous concerns of the legality of such a law as noted by Hawaii's own Attorney General and various other legal opinions.

Perhaps it would be better to maintain the definition of the necessary on-island representative as an agent or caretaker depending on the situation. Maintain choice in the process for both the owner and the visitor. The market place can filter out those who don't do a good job and it does.

If the intent is to help the State enforce the existing tax laws as well as protect the consumer I would submit using some mechanisms already in place could be of help. I have attached a PDF detailing some suggestions to help with enforcement of current tax laws while also protecting the consumers. I am hopeful this might be of use and eliminate the need for expensive lawsuits and more laws that have not the manpower to be effective much less enforced.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Kathleen Raskowsky
Organization: Individual
E-mail: kittiekr@comcast.net
Submitted on: 3/29/2012

Comments:
Oppose in current form

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas Raskowsky
Organization: Individual
E-mail: surfparadise@hawaiiantel.net
Submitted on: 3/29/2012

Comments:
Oppose!!!!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kenneth Gtrrn
Organization: Individual
E-mail: mahana1012@yahoo.com
Submitted on: 3/29/2012

Comments:
I am a retired owner of a condo in maui since 2003 who used to rent through an agent and ultimately decided to rent it myself, I want to express my opposition to HB 2078. 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 I believe 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 flood the market and have an impact on 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.

As a final concern there are an estimated 10,000 rent by owner properties in Hawaii. There is no way that the local realtors are prepared to absorb 10,000 new properties and advertise them in the timeframe that this bill proposes! Why don't you have the tax department go on VRBO and the other rental web sites and send an official email to each asking for their tax number and check the records for each. If there are 10,000 properties to check and they contact 300 per day it could be done in about one year. If I receive such an email and do not collect taxes the first thing I would do is file for a tax number. If there are over \$20,000,000 not being paid the costs which I would estimate at \$300,000 to \$400,000 could be covered by the increase in tax revenue and it should be easily done by a group of 4 employees.

The only group who will benefit from this legislation is the realtors. Everyone else involved will lose.

Mahalo;

Kenneth Green

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sharon Diercks

Organization: Individual

E-mail: sharondiercks@hotmail.com

Submitted on: 3/29/2012

Comments:

Bill HB2078 is unfair to all the non- residents owners that pay their taxes on time. We would have to raise our rates to all guests to pay for a property management company to do nothing more that collect and hold our money. We have used management companies in the past and they have not worked out well. There is nothing like a guest having a personal relationship with the owners. We opposed this bil HB2078

Dear Senator Baker and Committee Members:

In providing the testimony below, and attached, to you and others as noted, I am asking that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them — which in both cases will be far superior to mine — to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB2078 HD2, SD1 Amended supports and upholds the spirit and intent of NAFTA, and the provisions and protections it offers cross-border investors.

HB2078 HD2, SD1 Amended requires that,

[A]ny nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. Effective 7/1/2013. (SD1)

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 HB2078 HD2, SD1 Amended 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 by ascribing to Canadian investors the term "nonresidents." This would appear to offer significant contrast to the commitments and protections embodied in NAFTA Article 1102: National Treatment.

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.

Thank you again for your efforts to advance Hawaii policy objectives that enhance the underpinnings of the important trade relationship between our two countries. I would be pleased to assist in any way to advance state policy objectives in this regard.

Sincerely,

Adam

Adam Leamy

Victoria, BC

Canada

Attachment

March 29th, 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

Dear Senator Baker and Committee Members:

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 HB2078 HD2, SDI Amended (and recent Hawaii State Legislature bills similar to it).

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 our apartments are cared for and attended to by Tips Maui, Inc., owned and operated 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 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 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, grassroots 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.

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, to seek their efforts in providing helpful input to Hawaii State Legislature on bill HB2078 HD2, SD1 Amended. It is my hope that they may be able to assist in ensuring HB2078 HD2, SD1 Amended 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 HB2078 HD2, SD1 Amended 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), Chairman, 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 Cassie Doyle, Consul General of Canada in San Francisco (resp. for Hawaii)
- Perrin Beatty, President and CEO, the Canadian Chamber of Commerce, Ottawa, Canada

I start by saying that I am a responsible and documented part of the Hawaii Tourism Industry. I respect United States sovereignty over its affairs, and that of the individual States over theirs. So I do not consider it my place to offer a stance on this bill. I do hope, however, that my input — to the extent it might reflect the principles that underpin your deliberations and debates — might be considered in your actions regarding your responsibilities related to this and similar pieces of legislation.

My investment in the United States, in the State of Hawaii was shaped in part by the provisions and opportunities inherent in the “North American Free Trade Agreement” (NAFTA), which began on January 1, 1994. This agreement removes most barriers to trade and investment among the United States, Canada, and Mexico. My operation of this investment is fully in keeping with the scope and purpose of that Agreement, the requirements of all appropriate local, State, and United States tax laws, and is in accordance and compliance with the “United States — Canada Income Tax Convention,” a tax treaty between our two countries signed at Washington, D.C. on September 26, 1980, and which entered into force on August 16, 1984.

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.

On the Hawaii State Legislature webpage, HB2078 HD2, SD1 Amended is identified as follows:

Measure Title: RELATING TO TAXATION.

Report Title: Transient Accommodations; Nonresident Owners

Description: Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines

for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. Effective 7/1/2013. (SD1)

On this same Hawaii State Legislature webpage, “Nonresident Owner” is defined as follows:

[A]n owner of a rental property in the State who resides on a different island from the property or out of state and who rents or leases the property to a tenant.

This and recent similar bills progressing through the Legislature make and apply to “nonresidents” management and operation standards and requirements from which ‘residents’ are exempted or are largely exempted. And it is this distinction that forms the basis of my uncertainty about HB2078 HD2, SD1 Amended: Are not Canadians who are investors in Hawaii and who have investments there to receive treatment no less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors and to investments of resident Hawaii investors?

I referenced, earlier, the North American Free Trade Agreement. Signed by U.S. President George H.W. Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney, NAFTA came into effect on January 1, 1994. Since that time, NAFTA has, for all three countries, generated economic growth and increasing standards of living. In strengthening the rules and procedures governing trade and investment throughout the continent, NAFTA has opened doors for our countries. As important, for each of us individuals, it has allowed us to make investments, create enterprise, and drive prosperity.

I am not a legislator, a trade expert, or a NAFTA expert. Nor am I a government official possessed of, or with in-house access to, this level of expertise. I own a small business, and with my profits and personal savings, I have invested in these two properties in Hawaii. So when, in trying to come to terms with HB2078 HD2, SD1 Amended and similar recent Hawaii State Legislature bills that hold provisions for “nonresidents” that do not apply to “residents,” I turned to NAFTA, Chapter 11 (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 recognize that I may well be wrong in considering this NAFTA provision to be applicable to me, and to other Canadian citizens who have made cross-border investments in vacation accommodation properties in the United States, and who are unsure about HB2078 HD2, SD1 Amended. But on the chance that I am not, and other current or potential Canadian investors find themselves in a similar position and are unsure about this and other Hawaii bills, 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.

I am asking, therefore, that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them — which in both cases will be far superior to mine — to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB2078 HD2, SD1 Amended 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.

As I said at the outset, I am a Canadian. 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.

I realize NAFTA may seem a long ways away from the intent and purpose of this and similar Hawaii State legislature bills. But in the case of Canada and the United States, this linkage is so very strong, and whether we think about it frequently or not at all, it very much defines the relationship between our two countries, and offers a standard of treatment to which countries around the globe aspire, and in which they seek to participate. And for this reason, too, I think that care must be taken not to weaken this standard of treatment.

The Government of Canada makes some helpful findings of the importance of this relationship on its website <http://www.canadainternational.gc.ca/washington>. It notes that:

- Trade between the United States and Canada is huge and growing. Total trade between the two countries was worth \$676 billion in 2008 — more than one million dollars a minute.
- Canada is the top purchaser of U.S. exports, which was \$248.2 billion in 2010.
- Canada is the biggest export market for U.S. products, ranked Number 1 in 34 states as the leading export market for goods in 2008, and Number 2 in 11 others.
- More than 8 million U.S. jobs depend on trade with Canada. That's 4.4% of total U.S. employment — 1 in 23 American jobs depends on free and open trade with Canada.
- In Hawaii, in 2008, 40,465 jobs, or 4.6% of the total jobs in the state were related to trade with Canada. In that same year, almost \$2.38 billion of the Hawaii's output, or 3.7%, was related to trade with Canada. (Source: U.S.-Canada Trade and U.S. State-Level Production and Employment: 2008; Laura M. Baughman and Joseph Francois.)

I note also that in January of this year, the Hawaii Tourism Authority underscored the value of Canadians to the State's tourism export, when it reported that Canadians travel in party sizes of two or more, are more commonly repeat visitors, independent travellers, and stay in hotels and condominiums. Canadian vacationers get the accommodation they want, and the State reaps great benefit from its tourism export to Canada. As the Hawaii Tourism Authority reports, in 2011 alone, visitor arrivals from Canada were *the* dynamic force in Hawaii tourism, spending close to \$1 billion, with arrivals up almost 20%, and spending per day up 5%. In fact, total expenditures by Canadians "increased in every month of 2011."

It is a curious thing, indeed, that any Hawaii policy or legislative action would appear to target Canada, Canadians, and the trade agreement that collectively contribute so much to the State's tourism export and its economy.

Trade and investment flow both ways, and data showing the importance of the United States to Canada are just as impressive indicators of the power of the trade and investment relationship between our two countries. When advancing these facts, the same Government of Canada webpage notes that these gains underscore the need for making sure that our border remains open to trade. And United States government webpages make the same assertion; government policy on either side of the border that hinders or weakens investment costs jobs in every state and every province — and, I think it is fair to say, given our relationship, hinders confidence in others around the globe who would consider investing in our countries.

The NAFTA protections on national treatment notwithstanding, I note that in respect of HB2078 HD2, SD1 Amended, the bill would require "the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation." This seems a practical, and respectful amendment. Indeed, 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 through my operational control of my units I am already addressing that circumstance. 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 “the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation” there is an underlying intent, or desire to see someone other than myself have full control over that or any other such 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/l/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.

Hawaii State Legislature bill HB2078 HD2, SD1 Amended and others like it appear to be aimed at making sure that all who benefit from Hawaii and the United States contribute as required to keep Hawaii, and the United States running. We have precisely the same obligation where we live here in Victoria, in the Province of British Columbia, located in the country of Canada.

In these difficult economic times, it seems practical for any government to pursue tax scofflaws, law breakers, and free-riders whose choices not to participate in proper documentation, remittance, and compliance hurt us all. But to do so the manner of Hawaii State Legislature bill HB2078 HD2, SD1 Amended 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 bill HB2078 HD2, SD1 Amended 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.”

So if NAFTA shaped these cross-border investments by individuals, or if it governs their treatment in either country, it seems to me that action by a state to impose a different standard of operation on real estate investments by Canadian owners not resident in the state — or by a province on real estate investments by Americans not resident in the province — undermines NAFTA and creates significant tax liabilities for governments in both countries. And this would be a terrible course of action for both our countries. It seems quite possible to me that if one state can advance legislation to change the rules of NAFTA to impose different standards and costs on Canadian investors,

legislative creep could see other states do the same, and in time, Canadian provinces undertaking the same course to target Americans who own property in Canada. I think we owe each other better, but I concede that for all manner of governments, these are difficult and desperate times. Perhaps HB2078 HD2, SD1 Amended correctly signals that the time for trade agreements has passed.

In closing, irrespective of tax treaties and trade agreements that make my ownership of two properties in the United States possible, it always has been and continues to be a privilege that I am able to do so. I work very hard to provide an exceptional guest experience, and I am proud of my success in attracting visitors from around the globe to Hawaii, Maui, and Hale Kai O' Kihei. And yes, to my two apartments there. And part of the reward in this is knowing that I am making all tax collections and remittances to support the schools, hospitals and infrastructure that are essential to life, community, and opportunity in Kihei, Maui, and Hawaii, and that I value just as highly here, and support through my Canadian tax compliance.

But I would request that if the 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 compliance and make filings and remittances that are essential to the services and programs and thus the security and prosperity of Hawaii and the United States.

We care, and we would help.

There are thousands of good and willing people amongst those who have the privilege of owning rental properties in Hawaii. I know they would work with the State to assist others to achieve the standard of responsibility. Even given my status as a foreigner, I would be willing to help. There are ways to secure the participation of those who are not in compliance with Hawaii and United States tax requirements without sapping the strength or support of those who are, and importantly — which I fear is the case with HB2078 HD2, SD1 Amended — without disregarding the commitments and protections that give credibility, strength, force, and stature to NAFTA.

The benefit of 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 owners have proven — be they American, Canadian, or of other nationality — that purchase can be and is the start of the flowing of benefits 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 HB2078 HD2, SD1 Amended 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

773 Island Road

Victoria, BC V8S 2T8

Canada

Tel: 250-592-4778

Email: aleamy@northwestpublicaffairs.com

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Adam Leamy
adamleamy@gmail.com

March 29, 2012
Honorable Legislative Members,

I strongly oppose HB2089 HD2 SD1 and HB 1706, requiring non-resident property owners to hire a rental agent, as well as wording that is vague regarding exemption.

As condo owners our family fully supports paying all Hawaii taxes by paying them promptly when due, and we can support this with years of our records.

Below is just one letter of many (*highlights are mine*) that we receive regularly from guests:

"Aloha Jane and Dean!

We returned Sun AM from a wonderful trip, so just a brief thank you for being able to rent your condo directly from you.

The difference between our arrangement with you, and our second week through a property management company at Kaanapali,

was your personal touch, that made for our most enjoyable stay.

Cheers, Karen and John, Calgary, Alberta"

Many people return to Hawaii again and again because they prefer to rent directly from individual owners who take pride in their rental properties and make the rental experience a personal transaction. To remove that personal contact by using a rental agent who has no vested interest or knowledge of the property will discourage people from vacationing in Hawaii. With tourism coming back again, this could have a devastating effect on it.

As non-resident owners we have always paid GET and TAT taxes regularly and on time, and we employ a qualified on-island agent who is always available should our guests have any needs. As well, we are always personally able to be reached by telephone any time of the day or night so our guests know they can call us directly, if ever necessary. There is no question this layer of trust between us and our guests can **not** be duplicated by a rental agent.

SB 2089 will dramatically change the rental experience.... from highly desirable personal contact with the owners..... to "just another business transaction" by a property management firm or agent that handles multiple rental properties. Fees for the property management will then cause rental rates to increase, and ultimately people will choose to NOT vacation in Hawaii, thus the state of Hawaii will collect less tax revenue. Fees charged by rental agents will result in owners selling their properties and leaving Hawaii for states that are more supportive of rental property owners.

I do support a program that will search for and find non-complying owners who are not paying Hawaii taxes.

I strongly urge you to NOT pass HB-2078 HD2 SD1 Amended.

Sincerely yours,
Dean Burroughs
251 Camino al Mar
La Selva Beach CA 95076
831-688-5713

Statement Of Opposition HB 1707/2078

We hope we are not too late to comment on these bills before the state. We are quite alarmed as we only found out about these bills today. We are owners of a property in Hawaii and rent out our property on VRBO, as well as to friends and family here in British Columbia. We urge you to oppose these bills.

We cannot believe the State of Hawaii would require us to retain a salesperson in Hawaii and force us to pay a commission to rent out our property to our acquaintances here in Canada. We believe these bills are being advocated by property managers located in Hawaii who are supporting these bills not to increase the collection of state taxes, but to simply prevent competition and increase their own revenues.

There has been great growth of owners around the world managing their own properties using new internet based management tools such as Homeaway and VRBO. This increased competition is beneficial for consumers and owners resulting in lower costs. It is the way of the future. In some ways these new bills would be similar to a bill proposed by video store owners to prevent owners of movies from renting them out online. These property managers suffer from an outdated business model.

We have only recently bought real estate in Hawaii. This bill will make it unwise to purchase real estate in Hawaii. We very carefully studied the economics and estimated the costs vs. income (management fees of 30-40% gross not figured in to the equation). I hope you can appreciate the harm this bill will do to your real estate market.

We had purchased a condo that had been run by a management company, and the unit had become tired and neglected. It had also

been for sale for almost three years with no offers. We chose this one out of the numerous properties that were either distressed or foreclosed.

As owners managing the unit ourselves, we take pride in our property and spent close to \$100,000 renovating the unit and buying new furniture, etc. The state collected tax on our purchases and we provided revenue to business and jobs to contractors. As we were viewing properties with our realtor, he said thank god for Canadians bringing our dollars into Hawaii from stable banks and completing sales, helping to stabilize the real estate market. I almost feel that now after sinking our dollars into your economy, the state is now poised to sting us.

I am sure that the state of Hawaii benefits from investors such as ourselves putting our dollars into your state, and marketing your islands to our friends and family members who will now spend their tourism dollars in Hawaii instead of Mexico, Arizona, California or Florida. Do not underestimate the economic power that VRBO owners have to contribute to your economy. Affordable vacation rentals can only bring more visitors to Hawaii. You will chase us away with these bills. We use our personal networks to attract friends to vacation in Hawaii, who normally would not do a hotel-based trip there. They rent cars, eat in restaurants, buy goods, fill seats on airliners, take tours, etc. This can only be good for your economy.

We have dutifully registered to collect and submit state tax, and are in compliance with all Federal, State, and County regulations. As you are aware, the economics of real estate rentals is precarious. We are already operating at a loss with rental revenues not covering HOA fees, mortgage interest, electricity etc. Additional management fees will completely sink us. These bills will completely change the economics of buying real estate in Hawaii. We would likely have bought elsewhere if we knew this was on the horizon.

If you impose this bill, owners such as ourselves will have increased losses and we will be forced to sell, probably at a significant loss. It is probably outside owners like us that are buying Hawaii real estate stabilizing prices, which ultimately will preserve county property tax revenues. What would happen to real estate prices if all of us off shore owners had to sell, because 40% of rental income was taken out of real estate investors pockets? What would happen to property tax revenues to the counties?

Please do not make us regret significantly investing in your economy. Do not damage the fragile recovery of your real estate so close to the financial collapse, especially while economic growth is faltering. Defeat these bills.

Preserve State transient accommodation tax by enforcing existing legislation, not creating investment discouraging new legislation.

Reg & Sue Smith

69-1010 Keana Place B103

Waikoloa, Hawaii

General Excise Tax License & Transient Accommodations Tax

Hawaii Tax ID Number: W48207232-01

In Summary

If HB 1707/2078 passes it will:

1. Discourage real estate investment in Hawaii. Reduced real estate investment will cause prices to fall even further than they have already fallen following the financial crisis.
2. Reduced real estate values caused by lower prices will erode the municipal tax base of counties.
3. Reduce spending related to property up keep and maintenance which will: reduce work for trades, reduce spending on building materials, reduce spending on furnishings and housewares.
4. Increase the cost of vacationing in Hawaii. This will result in loss of visitors, and reduce spending by visitors on activities in Hawaii such as dining, taking tours, purchasing gifts. Reduce the occupancy of air travel to Hawaii.

Reg & Sue Smith
69-1010 Keana Place B103
Waikoloa, Hawaii

Registered holders of:
General Excise Tax License
Transient Accommodatioons Tax Certificate
Hawaii Tax ID Number: W48207232-01

Residing in:
Victoria, B.C. Canada

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:

We are opposing this bill HB2078 HD2 SD1 amended.

Bill HB2078 HD2, SD1, -will increase cost to travelers, reduce income to owners and take away the choice of dealing direct with each other by legislating we all use a middleman: property managers.

We Support paying tax and indeed pay it currently - but are opposed to inserting property managers or realtors into the equation

Law is unconstitutional as it targets non-residents instead of residents

Exemption needs to be spelled out and explained fully in any proposed legislation

Tourism is coming back, this could have devastating effect on it

Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell - flooding the market

Property managers are the only ones to benefit from this law, everyone else loses!

Thank you

Koshu and Vijay Madnani
6836 Leyland Park Drive
San Jose, CA 95120

Gentlemen,

I am an owner of an apartment at Kaanapali Royal in Kaanapali, Maui. My wife and I are Can-Am Solutions LLC and we rent our condo and promote local businesses all over Maui. We have provided local revenue, local taxes and have promoted vacations in Maui since 1995.

When we started, we went through a local well known property manager as our on island agent.

They charged us 40% and did not charge for the 6th night, as their standard offer to get occupancy up per rented condo. This practice could cost the county of Maui & state of Hawaii almost 50 days of vacation rental tax revenue per year, per unit, if fully occupied!

When we took over as VRBO renters, still using an on island agent, we not only increased our occupancy dramatically, but we charged for every night, thus providing more tax revenue to the county & state of Hawaii. Not only did we do that but we added a local business promotion to all of our vacation renters, thus supporting the local economy, better than left to the vacationers

themselves. WE also use local businesses to prepare & clean our condo every week we have it rented.

Now this proposed law addresses the VRBO renter, many of whom live off island and are not residents but would like to be. By proposing this measure it clearly treats non-residents as local residents and therefore has a question built into it as to the lawfulness of the measure itself. Please consider this from an owner's perspective, not a large hotel lobbyist's view.

Don't get me wrong. The heart of the intent of this bill has value. If drafted to make it a penalty for not reporting vacation rental by owner, would be a much better approach than a blanket law that need to have all the exemptions spelled out in it. I trust the hotel lobbyists would have you gloss over this aspect and draft the wording to suit their interests.

WHAT THIS COMES DOWN TO IS THIS.

- If this bill is passed and goes in effect, responsible VRBO owners will follow the law, prices will go up, and tourism in general will take a hit.
- Alternatively, this bill will drive NON-responsible VRBO owners to go underground and skirt the law, taking the risk, and causing TAX REVENUE to DROP!
- OR property owners who can't make an income to cover mortgages WILL SELL, adding to the real estate listings.

Property managers are the ONLY ONES who benefit from this law by their lobbyists, and everyone else loses!

PLEASE REVISE THE APPROACH ON THIS BILL AND DO NOT PASS IT AS IS.

Thanks you for your time, support and efforts to correct this travesty.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jeffrey J Caputo
Organization: Individual
E-mail: jjcaputo@pacbell.net
Submitted on: 3/29/2012

Comments:

I strongly oppose this bill and it's continuing permutation amendments. .As a non resident condominium owner, I support and pay taxes and resent the implication that non residents don't pay their taxes It is unconstitutional to single out non residents as well unreasonable and short sighted. Further, the tourism in Maui is improving and real estate appears to be stabilizing or improving. This bill will have a very negative effect as both real

estate values will decrease and the assuredly higher rates to tourist guests will negatively impact tourism.

The only groups which appear to benefit are management companies. But that is on the surface. More likely, the unintended consequence to them is decreased business as real estate values drop and tourists look for bargains in beach communities in other states.

Sincerely, Jeff Caputo

Opposing HB 2078

My wife and I are owners of a condominium on Maui, where we reside for half the year, and rent out for the other half. We are strongly opposed to this bill for many reasons.

Here is a list of reasons why we believe that this proposed bill should not be passed:

1. It is a serious impingement on some of the most basic rights of property ownership. If a person abides by all of the laws of zoning, taxation, etc, it is against all constitutional concepts of real estate ownership that he would be forced to turn over control of his property to an outside business. This would be equivalent to requiring by law that all property sales in Hawaii involve paying a commission to a real estate agent.
2. Financially, this bill will take money away from property owners who have invested in Hawaii, and transfer it to management people who have no vested interest in the property.
3. We have the required business license to rent our property, and have always paid the appropriate taxes when our property is rented. Passing this bill would essentially shut down our personal rental business, and transfer a portion of the income to management people who have no direct interest in our property. We hear a lot from government about the importance of supporting small businesses. Passing this bill would not only shut down our small family rental business, but may also force the sale of our condo, since our budget would not allow for property management commissions.
4. By personally controlling the rental of our property, we can make personal contact with the people that we choose to rent our part time home to, which provides a level of comfort and security over who we let into our home. Management companies have no such personal interest in who is let into a home, and their are innumerable stories of rental units being destroyed by renters put in by uncaring agencies. This problem is undeniably common.
5. We take great personal pleasure and pride in our part time home on Maui, and take equal pleasure and pride in being able to share it through rental to others when we are not there. We carefully choose our cleaning and maintenance people, and enjoy working directly with those that will be caring for, as well as renting 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 part time family home.
6. From our own experience, and the experience of many fellow property owners that we have talked to, forcing an owner to work with a property management company 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.
7. We have heard the argument that this bill will increase the states income by enforcing the payment of taxes on rentals. I do not feel that this bill is a valid approach to this problem. First of all, it is incredibly unfair to those of us who have been diligently paying taxes on our rentals to force us to now pay large commissions to real estate companies. Secondly, I do not believe that it will significantly increase enforcement. Those that have been avoiding the tax laws, will most likely ignore this new law requiring the use of a rental agency. In fact, I think that the huge increase in cost imposed by the rental agencies will encourage more owners to go "underground", since their budgets may not have the room to accept the extraordinary additional cost that this bill would impose. It will likely put some law abiding owners in the position of either needing to now go underground, or sell their property since the remaining income to them may not cover their mortgage and other costs of ownership.
8. Currently, the majority of units rented directly by their owners can be tracked on the sites through which renters find these units; sites such as VRBO (Vacation Rentals By Owner). Our local community successfully made use of this and similar sites to ensure that owners were paying our local rental taxes. Since this worked so well here, I would suggest a similar approach in Hawaii would be much more equitable than legislating away property rights.
9. In our case, if this bill were to pass, we would be forced to either sell our Hawaii home, or try to convert our unit into a long term rental, either of which would cost the state thousands of dollars a year in tax revenue that we currently pay.

This would be a lose- lose result for both us and the state, costing both of us income. If this bill were to pass, the only winners would be the property management companies, which would have been handed a monopoly by the legislature.

10. Lastly, in regard to the amendment that was attached to this bill, I would make the following observation. The exemption makes sense if it would apply to all owners who have historically paid all taxes, and if any requirement for a local contact would be satisfied by a condominium office on the premises, even if that office is not involved in rentals, but only in managing the condominium complex.

I strongly urge you to vote against any bill that unreasonably impinges on the basic rights of law abiding tax paying property owners, takes away control of our part time homes, and forces property owners to pay large management fees that will destroy carefully planned budgets that families are counting on to be able to afford their part time home, vacation home, and hopeful retirement home.

Thank you for considering our position on this matter.

John Crews
808-250-4959
220D Bald Mt. Rd.
Ketchum, ID. 83340
John Crews

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Theresa Kansas
Organization: Individual
E-mail: tjkansas@shaw.ca
Submitted on: 3/29/2012

Comments:

I am a Canadian who owns a condo in Kihei that I rent out through VRBO. I pay all required taxes and do not take a wage for running it. This proposed bill is a money grab by poorly run Vacation Rental Management Companies and middlemen. We all have our own horror stories with them. How can I trust that a middle man that they won't run off with all my money which has happened to owners? If this passes they will be springing up everywhere. I rent out 90% of the time to guests who spend their money on Maui which is good for the economy. I can do this due to low rates which will just be increased by management companies. I have made considerable upgrades using local tradespeople of my choosing and purchasing home goods and hardware at local stores. I hire an older cleaning lady I trust who is greatly in need of this income. Management companies require I use their own staff and maintenance people so I would have to fire these people. They will now need to rely on your government for financial aid. I screen my guests thoroughly so my place stays in top shape. This won't continue otherwise. Management company's say they have a high turnover of cleaning staff so there would always be a litany of cleaners through that I don't now. All my guests love my personalized service and virtually all intend to come back or tell their friends. This won't happen with management companies/middle managers. My experience as a

renter using them over the years has been terrible so I speak from personal experience as both a condo owner and one who has rented through these agencies. I've done so on the island as well as all over the world. The result is I always choose VRBO first when making travel plans. If this was law prior to our purchasing a rental property here we would not have done so. I believe many potential buyers will be likewise dis-waded and I won't buy another one if this passes. This will definitely hurt Maui's economy at a time when it is just starting to recover. If passed it will set a precedence for VRBO's worldwide and you will be facing huge legal challenges when this ruling goes global. It will hurt Hawaii's reputation. Law abiding owners such as myself are being punished for those who don't comply. Like many others we have invested a huge amount of money into the Hawaiian economy by purchasing and upgrading our units to bring visitors to your islands, while barely breaking due to our high costs. If this passes we may have to sell and again the flooded market will depress the economy of Hawaii just when it's starting to recover. I suggest an aggressive educational program regarding paying these taxes with a step by step guide. Insert it into property assessment notices, utility bills, telephone and cable bills, etc. This is a step backwards for personal freedoms to run your own business and antiquated in the world of online capitalism. DO NOT PASS THIS BILL!

Please oppose this bill. We rent from an owner in Maui. We have never had any problems. We do not want to pay higher prices by having this owner go through a real estate agent. We have rented from him for 5 years and the unit has always been clean and well taken care of. Please oppose this bill so we can continue to afford to visit Hawaii and bring our dollars to your state.

Kathryn Bair
801-254-5199
801-831-0599 (Cell)
gramieb@comcast.net

I am an owner of property on Maui. I am opposed to any regulations restricting my ability to rent my own property to individuals of my choice.

I should not be required by the state to run my rentals through a real estate company which will not have my best interests in hand when I rent my property. It will not allow me to make adjustments to prices I charge should I be faced with a vacancy.

We currently pay our two taxes quarterly and on time.

Vote NO on HB2078.

Thank you.

Richard Brashen

We are a resident part-time and we oppose the way this bill is worded. We pay our get and tat and know several residents who do not. Make a new bill that is fair for all.

Sincerely, Gene Phipps

Sent via BlackBerry by AT&T

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Peters

Organization: Individual

E-mail: kenp@bigislandhost.net

Submitted on: 3/29/2012

Comments:

Aloha honorable committee,

Please oppose this bad legislation. I agree that taxes that may be due should be pursued, but this is not the way to do it. I tried a Rental Agent, only to find that they put people in my condo, collected money, and told me the unit had not been rented. Not only did the rental management company cheat me, they cheated the tax department. This bill only forces tax payers like myself to forfeit control of my property to a rental company which may not even pay the taxes. It will reduce my income by 30-40%, which would leave me unable to pay my mortgage. Or it would increase the cost of a rental which would leave it vacant and REDUCE the amount of taxes. It would likely reduce tourism, and reduce property values. Who would buy property in Hawaii if they were forced to use a rental company and could not rent their own property? Please oppose this bill as all it really does is subsidize the rental companies that have lost business due to bad service and high fees.

Thank you

Ken Peters

I have been made aware of legislation in Hawaii that, based on my experience, is aimed at solving a problem that does not exist. Requiring an on island realtor to oversee vacation rentals will add a layer of expense to those of us who have used Vacation Rental By Owner to locate and rent vacation properties. My wife and I have done this twice, once on Oahu and most recently on Maui. On the second occasion we had our wife and daughter with us. On Oahu, we needed no assistance, but on Maui we had a problem with a door screen. An email to the owner resulted in same day service and repairs. A person on the island could not have served us better. I believe that adding to the expense of these rentals will affect decisions as to where people vacation.

Thank you for reading this.

Doug Whitlock
President
Eastern Kentucky University

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Patricia Morgan
Organization: Individual
E-mail: pmorgan@olypen.com
Submitted on: 3/29/2012

Comments:

My husband and I own a condo on Maui and live on the mainland. We pay our TAT and GE taxes as required by law. SB2078, HD2 SD1 will make it impossible for us to rent our condo at the current daily rate and meet expenses. If we have to raise our rates by 40-50% to pay a rental agency, no one will be able to afford the rent. Therefore, you will lose the money we are currently generating for the State of Hawaii. We definitely want you to receive the money generated from the TAT and GE but we are very much opposed to having property managers and realtors run our business. Please vote NO on SB2089 HD2 SD1.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gary & Jani Krambs
Organization: Individual
E-mail: garyk@sonic.net
Submitted on: 3/29/2012

Comments:

To Whom It May Concern:

I am sending this email to oppose any bill or legislation that would require renters to have to pay additional fees to any VRBO or direct from owner rentals for property management services.

I have used the VRBO website 1-2x per year (for at least the past 5 years) for vacations with my husband as well as girls weekends with family. There are 3 basic reasons why I use this site as opposed to an "official" property management group: 1) I like the freedom to select whatever location I want without a sales person forcing me on certain properties. 2) They tend to cost less than a hotel or other property so I can afford more frequent and/or longer trips. 3) I have always received personalized service from the property owner ranging from bringing extra toilet paper to acting as concierge for tickets or dining locations. I have yet to experience a bad stay and have recommended the VRBO site to numerous friends and family.

Just like bad property managers, bad property *owners* are eventually weeded out of the system as word spreads (and with all of the tripadvisor and yelp websites out there - word does spread). I don't think the vast majority of *good* property owners should have to pay for the few that are not. Should this bill pass and rates rise exponentially, I will definitely reconsider using VRBO and would likely go back to staying in hotels which I don't think is the intent of this bill.

Sincerely,
Lisa Huxel
Kansas City, MO

We pay out get and tat. More intervention is not the answer. We know of residents who do not pay all their get and tat.

Thank you,

Gene Phipps, 756016 Alii dr #322 Kailua-kona, HI 96740 Sent via BlackBerry by AT&T

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Peter Ingram

Organization: Individual

E-mail: pingram@keypics.com

Submitted on: 3/29/2012

Comments:

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Norman Gadzinski
Organization: Individual
E-mail: nphgad3@msn.com
Submitted on: 3/29/2012

Comments:

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Diane Luther
Organization: Individual
E-mail: dianescondo@msn.com
Submitted on: 3/29/2012

Comments:

Requirement of real estate broker only without oversight of their operation will hurt tourism and increase cost to owners substantially.
More importantly this bill discriminates against nonresident owners.

Why penalize all of us that pay our Taxes, for those who do not! We invested in Hawaiian property as an investment to benefit our family. It certainly benefits Hawaii too. We keep our properties well rented, and have done it ourselves from the beginning. Realtors Don't do that well at it and if we had to depend on them we would have gone belly up years ago. We provide on island emergency #'s, a good thing, but to have to go through a realtor is not right! We will sell! This bill will only HURT HAWAII! It will HURT the HAWIIAN ECONOMY as well. If this is A free country, we should be able to have a hand in our own investment, after all WHO put up the money in the first place, and took the risk!

Respectfully submitted,
Denise Russell
Owner of 3- Condo's in Hawaii

Sent from my iPad

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Shauna Buckner
Organization: Individual
E-mail: sbuck315@yahoo.com
Submitted on: 3/29/2012

Comments:

We are condo owners that do use a property manager but oppose this because we should be able to have free choice.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Greg Bundy
Organization: Individual
E-mail: gbbmp5@hotmail.com
Submitted on: 3/29/2012

Comments:

We are condo owners that do always use a property manager but oppose this because we should be able to have free choice.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Trish dunlap
Organization: Individual
E-mail: trishdunlap@earthlink.net
Submitted on: 3/29/2012

Comments:

HB2078 Comments:

Please vote no on this bill requiring owners of a condominium to employ a real estate agent in order to rent their property.

I have always paid my taxes and cannot afford to give some unrelated real estate agent a big part of my rents for trying to do what I now do very well.

In 10 years, I have never found a renter who objected to paying the taxes.

It is wrong to think, that by employing real estate agents, that they will collect money from tax cheats. They will continue to cheat. The real estate agents will get rich and the owners will suffer.

It is the State's job to collect it, not shove it off onto owners who pay taxes.

MARSHA VAUGHN, LSCW

2513 San Mateo Street
Richmond, CA 94804
marshavaughn@comcast.net
(510) 206-4619 cell

Hawaii Committee of Commerce and Consumer Protection

March 29, 2012

Re: HB 2078 HD2 SD1

Dear Senators,

A few further thoughts I wanted to share with you in my STRONG OPPOSITION to this bill and the others that replicate it (1707, 1706, and 2089).

1. In reading some of the testimony in support of the bill I came across a letter from a Property Manager who was possibly rightfully upset because she had lost the management of 40 units to owners who began using the internet to rent their units. She had to lay off staff and was making the case that this was hurting the Hawaiian economy. I would like to present a different scenario. Most of us, who are non-residents, hire local people to clean, repair and in minor ways take care of other issues related to our units. We pay them usually far more than the minimum wage that a property management company pays. Even the more highly paid property management firms pay \$15/hour for their top performers. Many of us pay local people up to \$20/hour. This definitely not only supports the local people in their employment but also brings more money into the Hawaiian economy. As well, these contractors have the duty to pay taxes on this increased income.
2. A second point related to this is, due to the fact that although we pay higher fees to our independent contractors, since owners have less overhead than property management or realty agencies, our rates can be somewhat lower. This allows many more tenants to come to the islands who would not be able to afford to come, especially given the ever increasing air fares, cost of car rentals, price of gas, etc. As well, these tenants have more disposable income to spend while in Hawaii since they are NOT paying it to me in rent and overhead. I obviously, cannot cite numbers but anecdotally my tenants have told me this. I am very happy to have provided several families from all over the world with the opportunity to visit Maui that they would have not had before. Many of them will return again, provided I can continue to rent to them.
3. Finally, a very disturbing element of this, which I have not wanted to surface previously, is that three times during the two years I have managed and advertised my unit I have been approached by local licensed property managers on Maui by phone. They had tenants who they had booked into units that they now could not for some reason allow them to stay in. As a result, they were desperately seeking some place for these tenants to stay prior to their arrival. In one case, the tenant was already on the island, in the unit

and had to be moved because the property manager had double booked. This in itself is alarming enough. But the point at which I said, "No," was when they informed me that they would pay cash to someone on-island for me, so I could reduce the rate and not have to pay taxes on the rental. In other words, they offered me an under-the-table deal. I refused in all three cases. These offers did not come from the same people. I wish today I had thought to document their names and phone numbers because I would certainly share them with you as I can see that your aim in all of this is to bring EVERYONE into tax compliance. Surely you can understand why after having these three experiences in two short years that I would be highly suspect of ANY property management firm managing my business for me. I believe if you polled the non-resident owners you would discover that very many of us have equally disturbing stories of the ways in which some of these companies operate.

4. To return to the first issue above, it is highly likely that this manager lost 40 units due to her own poor service and NOT as a result of owners finding the internet to be an easier way to rent their units. Running my own business takes a considerable amount of time and attention. It can be disruptive and stressful. If it was financially viable AND I could rely on another person to manage my unit, it would be a very pleasant option to consider. However, it very clearly is neither.

Again, I respectfully request that you defer this bill and take the time to devise one that will satisfy all of your intentions. One that truly allows for an honest evaluation of business practices in all vacation rentals in the State of Hawaii related to both tax collection and customer satisfaction.

Thank you for your time and service.

Mahalo,

Marsha Vaughn

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Richard J. Rachner
Organization: Individual
E-mail: rrachner@hotmail.com
Submitted on: 3/29/2012

Comments:

I am against HB2078 HD2,SD1! We have a family condo in Maui that we rent through an agent and partially through our own efforts. We do not want to be forced to solely use a Management Company or Rental Agency to do our renting. We pay all of the taxes for our unit and should not be forced into using a company to do all of our renting.

The Rental companies are all for this proposal as they will profit much from it. The cost of rentals will go up dramatically if this is passed, and tourists have other options on where they can go for vacations that would be cheaper than Hawaii. I am sure that Mexico, Bahamas or Jamaica would be happy to get the Hawaii tourists. The Hawaii tourist industry will be hurt by the passing of this.

I do not want to be punished because some others do not pay their taxes.

It is completely illogical to me that you have chosen to PUNISH the citizens that pay their taxes and not to figure out a way to force those that don't pay to get in line and follow the law.

I am opposed to this bill as written. I would be in favor of a bill that focuses on the tax cheats who are not paying their "fair share".

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Caroline Friesen
Organization: Individual
E-mail: cfriesen@roadrunner.com
Submitted on: 3/29/2012

Comments:

As a non-resident owner of vacation rental property, I collect and file all required tax reports and I have an on island caretaker property manager and housekeeper. I WILL NOT hire a real estate agent to MISMANAGE my property and I feel that it is an infringement of my rights for any government body to FORCE me

to do so. Adopt legislation that goes after resident and non-resident tax evaders alike - set up fines for those that are operating illegally - put in place a reward program for turning in illegal operations and allocate the funding needed to hire enforcement.

Comments:

Dear Members of Consumer Protection Committee, We are vacation rental properties owners in Kauai and we strongly oppose SB2089 SD1 Bill. This Bill doesn't help to insure fair tax collection (which we strongly support as taxpayers). In our opinion - it will have the devastating effect on tourism, homeownership and Hawaii economy in general and will cost millions of dollars of losing taxes as a result.

I want to specifically comment on the Proposed amendment "Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator" . We acquired our vacation rental properties converted to the condotel and sold out to the individual owners because large hotel operators got bankrupt. For the first 5 years we were using a large hotel operator for management, maintenance and rent our properties and this almost drove us into the FORECLOSURE. We could not afford it even with the original split, but when the occupancy dropped down due to economy, the initially agreed split was suddenly changed by the operator using "force majeure" clause from 50/50 to 75/25, we were paying flat fee for maintenance no matter if anything was done on our units or not. Renting our units by our self is our desperate attempt to keep so much loved properties in our possession. So far we can be afloat with our financial obligations, but it does require keeping our expenses low to maintain high occupancy rate covering a space in the budgetary constrained visitors' category. This category of visitors is new to Hawaii on top of the existing flow serviced by conventional hotels. Forcing us back into the hands of the large hotel operators means our inevitable bankruptcy and removing this additional flow of budgeted visitors to Hawaii. We have a significant amount of owners like us in our resort who is avoiding the bankruptcy only thanks to removing excessive expenses of the large hotel operator. It did help stopping a constant flow of foreclosures in our resort. But it could changed back to this point again and this bill would pass.

We do have local cleaning and maintenance personnel who takes care of our property and provide 24/7 customer support to our guests. We are in a constant communication with them. We are traveling there regularly to inspect/deep clean/renovate our units, provide help and support to the resort's Board to ensure common areas, external dwelling, landscaping and everything outside is well maintained. We were able to repair and upgrade our units and they are in a much better condition comparing to units still maintained by the hotel operator. Although, we don't permanently live in Hawaii, we constantly working for Hawaii, religiously paying our GE/TA taxes and property taxes and don't understand why we should be penalized for that. Our family spent over 10k in Hawaii only last year (and more than 50 k over the last 6 years!). If we lose our property - we will stop coming to Hawaii.

Amendment includes exemption which is not clear and confusing. Exemption needs to be spelled out and explained fully in any proposed legislation.

In sum - this is unconstitutional and discriminating bill (targeting specific group of taxpayers- non-resident owners). This bill is promoting monopoly of real estate businesses and hotel operators and price fixing and violates Antitrust law. This bill violates constitutional rights of property owners to manage and rent their property without using licensed realtors or hotel operators.

Thank you for consideration,
Proud owners of vacation rentals in Kauai and frequent visitors to Hawaii.
Veronica Leonova and Victor Leonov,
Wheeling, IL

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Laurel Pupa
Organization: Individual
E-mail: laurelpupa@aol.com
Submitted on: 3/29/2012

Comments:

As a non-resident owner of a vacation rental condo in the Waikoloa Beach Resort on the Big Island, I strongly oppose HB 2078.

This legislation would create a monopoly that would benefit realtors and property management companies at the expense of individual condo owners and tourists. It also discriminates against non-resident owners.

Please consider the effect on the Hawaii economy if owners like myself are forced to sell our vacation homes, or even go into foreclosure because we can't afford to pay the commissions charged by these realtors/property management companies. Also, tourists will be forced to pay more for condo rentals just to pay the realtors commission; this is not a good way to promote tourism to Hawaii when air travel has already increased!

Non-resident condo owners like myself (who collect and submit GE and TA tax) help to stimulate the Hawaii tourism industry by independently promoting vacation travel to the islands. Please do not force us to hand over a large percentage of our income to someone who is providing an unnecessary service at our expense. As it is, I've operated at a loss every year since purchasing my vacation home/condo in 2003, and can't afford to lose even more.

Any exemption for those of us who have been paying taxes needs to be spelled out and explained fully in any proposed legislation.

By the way, one of the management companies that is pushing this legislation (and we are supposed to hire to represent us), DOES NOT EVEN HAVE THE CORRECT TAX RATE ON HIS WEBSITE. SULLIVAN PROPERTIES ADVERTISED TAX RATES FOR TRANSIENT ACCOMODATIONS REFLECTS RATES FROM 2 YEARS AGO. (see attachment)

Mahalo for considering my comments.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Veronica Leonova

Organization: Individual

E-mail: vleonova@comcast.net

Submitted on: 3/29/2012

Comments:

Comments:

Dear Members of Consumer Protection Committee, We are vacation rental properties owners in Kauai and we strongly oppose SB2089 SD1 Bill. This Bill doesn't help to insure fair tax collection (which we strongly support as taxpayers). In our opinion - it will have the devastating effect on tourism, homeownership and Hawaii economy in general and will cost millions of dollars of losing taxes as a result.

I want to specifically comment on the Proposed amendment "Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator". We acquired our vacation rental properties converted to the condotel and sold out to the individual owners because large hotel operators got bankrupt. For the first 5 years we were using a large hotel operator for management, maintenance and rent our properties and this almost drove us into the FORECLOSURE. We could not afford it even with the original split, but when the occupancy dropped down due to economy, the initially agreed split was suddenly changed by the operator using "force majeure" clause from 50/50 to 75/25, we were paying flat fee for maintenance no matter if anything was done on our units or not. Renting our units by our self is our desperate attempt to keep so much loved properties in our possession. So far we can be afloat with our financial obligations, but it does require keeping our expenses low to maintain high occupancy rate covering a space in the budgetary constrained visitors' category. This category of visitors is new to Hawaii on top of the existing flow serviced by conventional hotels. Forcing us back into the hands of the large hotel operators means our inevitable bankruptcy and removing this additional flow of budgeted visitors to Hawaii. We have a significant amount of owners like us in our resort who is avoiding the bankruptcy only thanks to removing excessive expenses of the large hotel operator. It did help stopping a

constant flow of foreclosures in our resort. But it could be changed back to this point again and this bill would pass.

We do have local cleaning and maintenance personnel who take care of our property and provide 24/7 customer support to our guests. We are in a constant communication with them. We are traveling there regularly to inspect/keep clean/renovate our units, provide help and support to the resort's Board to ensure common areas, external dwelling, landscaping and everything outside is well maintained. We were able to repair and upgrade our units and they are in a much better condition compared to units still maintained by the hotel operator. Although, we don't permanently live in Hawaii, we constantly work for Hawaii, religiously paying our GE/TA taxes and property taxes and don't understand why we should be penalized for that. Our family spent over 10k in Hawaii only last year (and more than 50 k over the last 6 years!). If we lose our property - we will stop coming to Hawaii.

Amendment includes exemption which is not clear and confusing. Exemption needs to be spelled out and explained fully in any proposed legislation.

In sum - this is unconstitutional and discriminating bill (targeting specific group of taxpayers- non-resident owners). This bill is promoting monopoly of real estate businesses and hotel operators and price fixing and violates Antitrust law. This bill violates constitutional rights of property owners to manage and rent their property without using licensed realtors or hotel operators.

Thank you for consideration,
Proud owners of vacation rentals in Kauai and frequent visitors to Hawaii.
Veronica Leonova and Victor Leonov,
Wheeling, IL

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Richard Beck
Organization: Individual
E-mail: rick.beck55@yahoo.com
Submitted on: 3/29/2012

Comments:

Aloha. I oppose this bill for several reasons. Mostly having a middleman will take responsibility away from the owner. My experience with a Realtor representing our condo was bad, in six months he booked only one guest and the single one he did caused problems with our resident neighbors. As an owner I screen each guest by telephone to establish a personal connection and ensure they are the type of guests that will not disrupt residents. This bill is nothing short of a power grab by Realtors to increase profits...nearly every owner in our complex that has their unit represented by the two major Realtors on West Maui complains about their service and lack of

responsibility. Are these really the people we want collecting taxes and representing the aloha spirit to tourists?

Yes we all need to collect the TAT/GET and I'm sure the vast majority do that. Why punish those of us who are honest? Would it not be more productive to cross reference internet ads and property tax records with TAT/GET records? Fact is, requiring people to use a middleman will not stop the dishonest renters and there appears to be no government enforcement. I support prosecuting the non-payers...as they are undercutting my prices by at least 13.5% and worse keeping the taxes badly needed to support island infrastructure.

Another possibility is the negative effect this may have on property values and the property tax collected. As an example, if I lose 25-40% of my sales to a middleman, I may as well long term rent...means zero TAT, and a lower property tax rate. If many folks do that, prices will rise on other rentals and less tourists will visit Hawaii, which is already very expensive for the 99%. Further, if this causes values to drop, it will be time to sell further driving prices down.

Lastly I believe this proposed law is unconstitutional as it singles out a particular group. Do we require nail salons, hairdressers, restaurants, all cash businesses to be represented by a middleman? What about WalMart and K-Mart? My guess this law will lead to costly litigation and yet another waste of taxpayer money that is needed for schools, roads, health and safety, etc.

What I do support: Yes each owner should have an on-island contact for emergencies and display the rental address in advertising. I also have no problem providing my Hi tax id...so long as the government does not release any personal information.

Mahalo and please do not pass this poorly disguised power grab by the real estate industry. By-the-way, I am a licensed real estate agent in California.

To Whom it May Concern:

As a non-resident owner of a vacation rental condo in the Waikoloa Beach Resort on the Big Island, I strongly oppose HB 2078.

This legislation would create a monopoly that would benefit realtors and property management companies at the expense of individual condo owners and tourists. It also discriminates against non-resident owners.

Please consider the effect on the Hawaii economy if owners like myself are forced to sell our vacation homes, or even go into foreclosure because we can't afford to pay the commissions charged by these realtors/property management companies. Also, tourists will be forced to pay more for condo rentals just to pay the realtors commission; this is not a good way to promote tourism to Hawaii when air travel has already increased!

Non-resident condo owners like myself (who collect and submit GE and TA tax) help to stimulate the Hawaii tourism industry by independently promoting vacation travel to the islands. Please do not force us to hand over a large percentage of our income to someone who is providing an unnecessary service at our expense. As it is, I've operated at a loss every year since purchasing my vacation home/condo in 2003, and can't afford to lose even more.

Any exemption for those of us who have been paying taxes needs to be spelled out and explained fully in any proposed legislation.

By the way, one of the management companies that is pushing this legislation (and we are supposed to hire to represent us), DOES NOT EVEN HAVE THE CORRECT TAX RATE ON HIS WEBSITE. SULLIVAN PROPERTIES ADVERTISED TAX RATES FOR TRANSIENT ACCOMODATIONS REFLECTS RATES FROM 2 YEARS AGO. (see attachment)

Mahalo for considering my comments.

Laurel Pupa
Pupa Properties

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Claudia Snyder
Organization: Individual
E-mail: cocacola@diveboat.net
Submitted on: 3/29/2012

Comments:

Please oppose this bad legislation.

I support collecting taxes from those that owe them, however forcing owners to use a rental agency does not mean the taxes will be paid. It does mean an owner is forced to forfeit 33% to 45% of their income to a rental company that provides service that will not be as good as the owner provides. If rental companies did a good job at a reasonable fee people would flock to them, but that is not the case. Because of bad service and high fees, owners seek an alternative and prospective renters seek out owners as they prefer to deal directly with the owner.

Please oppose this bill which will reduce tourism and reduce already depressed property values. Enforce the tax laws already on the books instead of passing a bill to subsidize rental companies.

Thank you
Claudia Snyder

Dear Members of Consumer Protection Committee,

We are vacation rental properties owners in Kauai and we strongly oppose 2078 HB, HD2, SB1 Bill. This Bill doesn't help to insure fair tax collection (which we strongly support as taxpayers). In our opinion - it will have the devastating effect on tourism, homeownership and Hawaii economy in general and will cost millions of dollars of losing taxes as a result.

I want to specifically comment on the Proposed amendment "Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator" . We acquired our vacation rental properties converted to the condotel and sold out to the individual owners because large hotel operators got bankrupt. For the first 5 years we were using a large hotel operator for management, maintenance and rent our properties and this almost drove us into the FORECLOSURE. We could not afford it even with the original split, but when the occupancy dropped down due to economy, the initially agreed split was suddenly changed by the operator using "force majeure" clause from 50/50 to 75/25, we were paying flat fee for maintenance no matter if anything was done on our units or not. Renting our units by our self is our desperate attempt to keep so much loved properties in our possession. So far we can be afloat with our financial obligations, but it does require keeping our expenses low to maintain high occupancy rate covering a space in the budgetary constrained visitors' category. This category of visitors is new to Hawaii on top of the existing flow serviced by conventional hotels. Forcing us back into the hands of the large hotel operators means our inevitable bankruptcy and removing this additional flow of budgeted visitors to Hawaii. We have a significant amount of owners like us in our resort who is avoiding the bankruptcy only thanks to removing excessive expenses of the large hotel operator. It did help stopping a constant flow of foreclosures in our resort. But it could be changed back to this point again and this bill would pass.

We do have local cleaning and maintenance personnel who takes care of our property and provide 24/7 customer support to our guests. We are in a constant communication with them. We are traveling there regularly to inspect/deep clean/renovate our units, provide help and support to the resort's Board to ensure common areas, external dwelling, landscaping and everything outside is well maintained. We were able to repair and upgrade our units and they are in a much better condition comparing to units still maintained by the hotel operator. Although, we don't permanently live in Hawaii, we constantly working for Hawaii, religiously paying our GE/TA taxes and property taxes and don't understand why we should be penalized for that. Our family spent over 10k in Hawaii only last year (and more than 50 k over the last 6 years!). If we lose our property - we will stop coming to Hawaii.

Amendment includes exemption which is not clear and confusing. Exemption needs to be spelled out and explained fully in any proposed legislation.

In sum - this is unconstitutional and discriminating bill (targeting specific group of taxpayers- non-resident owners). This bill is promoting monopoly of real estate businesses and hotel operators and price fixing and violates Antitrust law. This bill violates constitutional rights of property owners to manage and rent their property without using licensed realtors or hotel operators.

Thank you for consideration,
Proud owners of vacation rentals in Kauai and frequent visitors to Hawaii.
Veronica Leonova and Victor Leonov,
Wheeling, IL

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mike and Jeanette Whalen
Organization: Individual
E-mail: mauiwhalens@sbcglobal.net
Submitted on: 3/29/2012

Comments:

I do support paying taxes, however I do oppose inserting property managers or real estate agents in the equation. I believe this bill is unconstitutional as it targets non-residents and not residents. This bill will cause rental rates to go up and tourism to go down, real estate values to go down. Why does the State of Hawaii believe owners who live off island are more dishonest than resident owners. We have owned a condo in Maui for 27 years and have always collected and paid all taxes. This is already a law.

Aloha Committee,

Thank you for taking time to consider my OPPOSITION to 2078 HB, HD2, SB1
I have rented my condo in Hawaii 11 years on my own. I originally used a "Licensed Property Mgmt. Co". They managed approx. 200 units. They overbooked causing chaos. I had a ten-night rental but my guests were moved leaving me with a 3-night rental. Moving guests made the "licensed property mgr." more money but cost me dearly!
A few guests arrived and were moved because the LPMgr. forgot to clean my condo!
Nearly every month, I was billed for items such as light bulbs, batteries etc. Does a one-bedroom condo need 5 smoke detectors in one year? I do not believe so.

Now "Lic. Property Mgrs. Want you to believe they can do a better job than me and they can ensure I pay my GE & TA Taxes WHICH I DO EACH QUARTER!

Question: When Steve Jobs built a better mousetrap. Did Sony and Samsung come to the government begging for 40% of APPLE'S profit? NO! They changed the way they do business and COMPETED! Real Estate/Property Mgrs. Need to learn this lesson.

The Internet made it possible for owners to rent their own condos and stop the insanity. The personal touch of speaking to guests one on one resulted in rentals skyrocketing. Guests feel they "know me"! They can call me for anything, and do!
The increase in rentals has resulted in more GE and TA taxes paid to the State.
I arm my guests with tons of information. Some of it is fun and helpful but also includes the name of my "**designated on island contact**" should there be a major problem.
My guests have information concerning doctors. Yesterday it paid off for my guest.
All of this information has resulted in virtually zero problems. It can be done!

Please consider this: Any potential "buyer" of a condo in Hawaii will ask "can I rent the condo and offset the costs of the mortgage, \$750 monthly dues, insurance etc.

We barely make a profit the way it is. If we are forced to pay a property manager 30%- 50% of our income owners will put their condos up for sale. Do we need more for sale?

Buyers will run! Real Estate sales & taxes will plummet along with GE & TA taxes!

A "licensed property manager" is not the answer. Their costs will drive up our rental rates, which will kill our tourism industry.

My condo renting for \$269 per night will have to rent at \$376 if I am forced to hire a "licensed property manager" at 40% commission.

Again, the Internet has changed everything! Guests have thousands of vacationing options. Cancun, the Caribbean and Florida are just a few and they are more affordable.

Most owners not only endorse but need a **designated island contact** but it is not necessary for that contact to be a "licensed Property Mgr"/ Real Estate Co.

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".

Thank you very much, Donald G. Brattin

Please let me state my OPPOSITION to this bill.

I am a resident of Wisconsin and I have taken my family to Hawaii several times. We have stayed in hotels, resorts and in condos that I found online. I must say that I have had a wonderful experience with individual condo owners every time I have stayed in them. I like the personal service the owners have given us. We've never had any issues ever!

If this bill passes, it will add unnecessary costs to my vacation and will no doubt cause me to look elsewhere in the future to spend my vacation dollars. I love Hawai'i, but I also have choices in the Caribbean, Florida, Mexico and the emerging Central American condominiums. They're not Hawai'i, but they offer good value. This unnecessary bill will only price the privately-owned condos in your state out of my reach by adding a layer of management that is unnecessary.

Thank you for your time.

Sincerely,

Keith Bradley
3151 Rudolph Drive
Racine, WI 53406

March 28, 2012

Re: HB2078

To whom it may concern:

I am a Maui vacation rental condominium owner residing in California.

1. I fully support the collection of TA and GE taxes by the State of Hawaii.
2. I am very concerned about having to put my TA and GE tax ID numbers on any website because it may be used fraudulently by others and/or my personal information may be used by others.
3. I feel that posting an island contact phone number can confuse prospective renters.
4. I currently have on island contacts for my guests but do not wish to employ a licensed real estate professional for that purpose as it is too costly. And in my past experience, the licensed agent whom I used did not screen renters very well and did not give me nearly the number of rentals as I have been able to obtain with renting directly on my own.
5. I would be not object to giving my TA and GE ID numbers to my renters after they have reserved my unit. I already give them 2 local contacts on island in their unit instructions.
6. I may have to sell my property if I have to use a licensed RE agent because I would not be able to obtain enough income to support my property ownership.
7. I have regular renters who would strongly object to having to go through a licensed agent and pay extra commission. I already get complaints about the high TA and GE taxes in Hawaii.

Thank you for your consideration of these matters.

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

Hawaii Legislators
RE: HB2078

We consider the above referenced bill to be unnecessary, discriminatory against non-residents of Hawaii, injurious to all Hawaiian property values and, therefore, the Hawaiian economy. We also believe this is an unconstitutional violation of the Commerce Clause of the US Constitution.

HB 2078 requires the following:

The stated purpose of this measure is to ensure that non-resident owners of rental property that is rented for 30 days or less pay their fair share of general excise taxes on the rental income. To accomplish this, the bill requires:

- (1) The rental transaction to be performed by licensed real estate brokers and salespersons;
- (2) The real estate licensees to collect the rental proceeds and remit the appropriate tax amount to the Department of Taxation; and
- (3) The Real Estate Commission to give non-complying owners seven-day notice to comply with requirements and provides for a non-compliance penalty of \$1000 per day.

If Hawaii has a problem with resident or non-resident property owners who do not comply with Hawaii's tax law, then it should enforce the current laws rather than introduce a new law that makes it a crime not to hire an in-state realtor to collect rents on their property and pay taxes on behalf of owners.

The proper approach is for the State of Hawaii Department of Taxation to identify transient rental property owners who are not complying with Hawaii tax laws rather than imposing additional expenses on those of us who are complying, unless the real motivation has nothing to do with tax compliance. Our suspicion is that these bills are sponsored by lobbyists for the real estate professionals, who are looking for new sources of income at a time when real estate sales are down.

To comply with this legislation it could cost up to 40 percent of an owner's gross annual rental income and create an unfair financial expenditure that may cause us to fall short of meeting monthly mortgage payments, which would eventually force us into foreclosure.

SB 2078 is the WRONG solution to the problem. These bills will hurt the homeowners who are adhering to the rules—whether they are residents or non-residents. If a vacation rental owner is not paying their taxes now (again, whether they are a resident or a non—resident), requiring them to use a real estate management company or realtor is not going to incent them to pay the taxes. It may even have the opposite effect, that of increasing noncompliance as owners attempt to avoid the new oppressive rules. Enforcement of the existing laws for transient taxes (Chapter 237D) that already provides penalties is what is needed.

We have been managing the renting out of our home as a vacation rental and diligently collect and pay all required TAT and GE Taxes. Likely, the majority of responsible owners who handle the renting and collecting of monies do the same for their properties. There is no factual documentation or evidence to support widespread abuse of non-payment of TAT and GE taxes as suggested. Passing bills based on this speculation is totally unacceptable. The majority of responsible owners should not be punished as the result of mere

speculation with no actual research or supporting factual information. One opponent of this proposed legislation provided written testimony and documentation relating to a 2007 audit of these taxes by the Hawaii tax authority which showed no abuse by non-resident owners.

These bills serve to merely create another ungoverned intermediary such as is used for 1031 exchanges which recently have had widespread cases of misuse of funds, theft, and lengthy and costly prosecution of the offenders.

At all levels of government, whether it be state or federal, the consequence for not paying taxes when due is to impose interest/penalties on past due amounts. If it is willful fraud, the agency will then pursue criminal action. At no level does any other government agency require that your salary/income be received by a third party. We all are bound by law to pay taxes that we owe and if we do not comply those, same laws impose penalties (interest, fines, or jail for fraud). Hawaii already has laws that require any person selling accommodations to collect TAT and GE tax. If there is a non-compliance of that law, the "crime" is for not paying one's taxes.

These new proposed laws now make the "crime" not hiring a realtor/property manager and the penalty for non-compliance is up to \$1,000 a day! If the State's motive is to collect taxes, enforcement is what is needed, not a law that property owners must hire a realtor manager and then relinquish all rights to manage their own property.

In addition, these bills are directed ONLY to "non-residents", which appears to be extremely discriminatory and a violation of the Commerce Clause of the US Constitution, providing preferences for residents at the expense of unrepresented non-residents. Just because someone lives outside of the State, they are presumed to be non-tax payers? Or conversely, just because someone lives on-island they are following the letter of the law? While it may be a good idea for non-residents to employ an on-island manager for guest convenience, which is already provided for in the laws, it should not be a requirement that the on-island manager collect all rental income and arrange for tax compliance. This simply adds unnecessary costs to the already high cost of providing vacation rental property in Hawaii. In addition, at a time when property values are extremely depressed, rental income down significantly over the past 4 years, and occupancy down, these bills are just another impediment to being able to invest in Hawaii property. They will have a dampening effect on the already depressed market, and likely cause more defaults.

Furthermore, the unintended consequences of these bills include:

- Increased costs of tax compliance by owners currently utilizing licensed property managers,
- Additional layers of costs for all onsite managed properties. Many properties on the islands have resident property management onsite which likely is not run by licensed real estate brokers, nor set up to collect rent, file returns, and pay taxes on owners behalf. The owners in these types of properties may not even use the "dreaded" VRBO-type online rental management services, but will unwittingly be caught up in the consequences of this poorly conceived legislation.
- As mentioned above, the opportunity for fraud on a massive scale by unscrupulous real estate brokers.

By enacting this proposal, the only benefit is going to be to the real estate industry, and they are not all even aware of these proposals, nor are they prepared for the additional burdens this could create

for their industry. Please consider the impact this is going to have on the homeowners trying to rent their properties, and to the economy of the state. We have already seen the effect that defaulted properties have had on the economy. If the concern is about taxes, perhaps devising a system to track rentals would be in everyone's best interest, not creating a bill to line the pockets of real estate professionals.

While the law purports to be motivated by tax collection and revenue generation, it is really a poorly veiled attempt at boosting the property management revenues of on-island licensed brokerage companies at the expense of everyone one other than on-island property owners. The method employed is discriminatory, adds undue costs to property owners, and will likely lower the revenue generation to the State from these rental properties. If tax reporting is the goal, other less intrusive, costly and discriminatory methods should be explored. Laws are already in place to address payment of taxes -- why not enforce them instead of introducing unnecessary bills?

Sincerely
Kevin & Janai Hendra
58 Viaggio Lane
Foothill Ranch, Ca. 92610

Regarding the above bill. I have been visiting Hawaii since 1976. I frequently rent condos directly from owners, both on Maui and on Oahu. Over the years I have developed excellent relationships with several owners and have always have excellent results and consider myself better "cared for" than if I had to rely on the local leasing office who is having to deal with dozens of tourists.

This bill another attempt to increase costs to travelers like me, and limit an owner's right to conduct his leasing as he chooses. Please do not pass this bill.

Hawaii is heavily dependent on tourism and the subject legislation is not very tourist-friendly. Aloha and Mahalo to legislators who oppose this bill!

Mary McElwee
SVP/Credit Administrator
Citizens Business Bank
701 N. Haven Ave., Suite 250
Ontario, CA 91761
OPX 7267
909-980-4030 ext 7267

Comments Opposing Bill HB2078 HD2, SD1

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 owners 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 for the booking they made or pay the state for the taxes that had been collected. The owners were still liable for all the taxes and ethically honored bookings that were made.

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, resort and gives the name and phone number of our on-island contact. 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 extra 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 HB2078 HD2, SD1

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Janet Crews
Organization: Individual
E-mail: jjcrews@me.com
Submitted on: 3/29/2012

Comments:

Dear Representatives,
I would like to strongly oppose this bill.

My husband and I have worked and lived on 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 beckoned call if they need anything or for any emergency. These people will be out of work with your new bill; do you want to contribute to Maui's high unemployment and loose their tax payments as well? Our complex has a full time on site manager and fully staffed office that cares for residents and guests.

We worked hard and for many years to buy our own Maui home and we want to be our own property managers of our home, so that we can screen who will be using our property 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 property management company and the unit was in serious disrepair and unclean; yet they charged huge sums to the property owner and claimed it was well cared for and that the guests they booked treated it well. We know this not to be true, because we saw it first hand when we rented it before buying. The owner was appalled when we sent him photos. The unit was very dirty, drapes had hems torn and hanging down, the sheets were very worn and did not even come close to matching; the pillows old and pretty disgusting. The carpet was dirty and in disrepair. The towels were stained and old; yet the owner claimed he had repeatedly supplied new linens, pillows, and towels. The bathrooms were unclean with moldy tiles and the kitchen was unkempt as well. We had to completely deep clean and repair the place before we could even live there ourselves

We did not use our life savings to have to pay others a commission to rent our place to just anyone and allow any number of people to stay at one time; and to have any trust they will care for it as we do. 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 part time family home. It is not right to force this on honorable tax paying citizens and it is unjust to just target off island residents. I have paid every cent of taxes due, PLEASE DO NO PENALIZE US FOR OTHERS WRONG DOING.

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. Would you turn your home over to a rental management company?

Thank you,
Janet Crews

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: dave giacomini
Organization: Individual
E-mail: davegiacomini@sbcglobal.net
Submitted on: 3/29/2012

Comments:

As a property owner on the Big Island I oppose this bill as it will only benefit property managers, while hurting the local Real Estate market, depriving real estate owners of a very fundamental right to rent out their own property. The use of an agent can only add extra costs for vistors to incurr at a time that the tourist economy is starting to come back again, I pay my taxes, and shold not delegated to being at the mercy of the greedy proeprty managers in Hawaii

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Fred Hall

Organization: Individual

E-mail: hallscondo@sbcglobal.net

Submitted on: 3/29/2012

Comments:

This bill is unconstitutional as it targets non-residents and not residents. We will no longer be able to keep our condo in Maui, we can not afford it as will thousand of other owners who rent their own condos. Real estate prices will go down even further and tourism will go down. This bill will only benifit Real Estate agents and Management companys. We do not rent our own condo to make more of a profit, we rent our own condo to be able to make our Mortgage payments, Association dues and property taxes.

I am opposed to SB 2078 and all of the other bills that are dealing with the same subject, often with the same wording. It would seem obvious that someone or a group of people are so intent on passing this legislation that they have produced it in many different bills.

The property management groups are unhappy that they have lost business. In my case, an agency lost my business because of the inept job they were doing. In recent years, I have had to work hard to build a clientele, and I am not ready to turn that over to someone else who will not give my guests the same good experience that I provide. As a business person, I do not want to pay someone else for the work I am doing. As a matter of fact, I cannot afford to pay an agent.

I have on-island contact people, and my guests have those numbers. Of course, I provide them with my phone number also. One guest wrote in my guest book that the service I provided was just as if I were right next door. You can't get much closer than that! I don't believe it would be helpful to have my on-island contact's number in my advertisement. What customer needs to call them at that point? It would only be confusing and an invasion of their privacy.

This bill is unfair and discriminatory. Why is it that non-residents are the only ones required to follow these rules? Do all residents pay their taxes or is it that residents vote?

There have to be better ways to enforce the tax rules that you already have. Please stop this bill

If you are going to be protecting the consumer, I believe you may need to protect them from some of the agencies. There is a reason that visitors to Hawaii and other places around the world are choosing to deal with owners. The consumer can know which room, which view, and which size bed they are booking when they deal with the owner. The typical response from an agency is that they will note the guests' requests, but they cannot guarantee they will get them. When I had an agency, I had complaints that the agency would not return calls when the guests needed something.

As an owner, I also do not want agencies telling me what kind of furniture I have to have, nor do I want to be forced to buy linens and other items from them. I don't want to be subject to their whims as to which condo get the renters.

Again, I plead with you not to force discriminatory legislation about how I can run my legal business.

Linda Mitchell

Lindafinearts@gmail.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Don Duwe

Organization: Individual

E-mail: winemaster@whidbey.com

Submitted on: 3/29/2012

Comments:

I strongly oppose SB 2078.

By taking away the rights of owners who invested in Hawaii and use VRBO to draw visitors to Hawaii you will discourage many visitors. The off Island owners are not the ones not paying taxes. We are the ones paying. we need a property manager to look after our investment, clean between guests, and have a person to check in renters and be available for emergencies. we collect taxes and pay our taxes. The people who live on or near their rental properties are the ones most likely to not pay taxes. They are the exclusive contact for rental, cleaning, and looking after their condos.

I have owned a condo for 12 years and started with a rental association with a manager. My condo was rented very little that I was knew of yet my condo always had much damage and wear and tear. There are many horrible stories of property managers rent out condo or having parties in condos without owners knowledge.

Who is going to police the condo managers, realitors, or agents? I think people who have invested in Hawaii are much more reliable than a greedy individual with no investment. At least the State of Hawaii can follow up with owners. How do you check managers?

Don Duwe

To whom it may concern,

Over the past 10 years we have saved up enough money to take a several family vacations to Hawaii, once to Kona and a several times to Maui. We have rented our condo each time from a private party to help make our trip affordable and possible. On each visit everything was as promised and we were completely satisfied with our accommodations. We would like to visit again in the future but are concerned if Bill HB2078HD2,SD1 requires the use of a agent or broker that would ultimately increase the cost of the condo to us, we would be forced to look elsewhere for our vacation destination.

Sincerely

Steve Fisher
Ione, California

Gail Baker

Aloha House Representatives,

I am writing to oppose **HB2078 HD2 SD1**. I am a non resident homeowner who rents their townhome to help pay the costs of ownership. From reading the testimony it sounds like the reason for this bill has to do with the nonpayment of GET & TAT by owners that rent their homes. There is already a law which addresses paying these taxes and there are certainly other ways to enforce this law besides forcing homeowners to rent their property through a real estate broker or licensed real estate agent. When we purchased this home we knew that we would have to rent the property to be able to afford it. It was not in our original profit and loss estimate to pay a real estate company to rent the property for us. Should this bill pass we will no longer be able to pay for this property and will be forced to sell at a time when the property is worth 50% less than when we purchased it. This bill is unconstitutional by taking away the right of the homeowner to choose how they wish to manage their property.

We have also had to lower the cost to rent the property in half due to the huge influx of rental properties in the rental pool. We presently carry a significant negative cash flow on the property and the only way that we will be able to keep the property is to rent it ourselves. The cost that realtors charge would not suffice to be able to hold on to the property. I have also had very bad experiences with realtors both with filling the calendar and also with the clientele that they allow in the property. I would never feel comfortable allowing a realtor to take over the responsibility.

The real estate market has been a complete disaster with the amount of foreclosures and short sales. Our complex is finally to the point that almost all of these properties have been sold and there is now becoming more of a demand to buy properties which will hopefully bring back some of the value which we have lost. Should this bill be enacted it will create another

onslaught of properties that will have to be sold due to the fact that the owners will not be able to afford the negative cash flow created by having to pay a realtor a commission. This bill will also affect the future sales of properties due to the cost to hold the property by the purchaser. Lower sales prices mean lower property taxes to the state.

It is clear that all of the testimony in favor of the bill comes from the real estate industry that will benefit from the passage of the bill. The average homeowner has no idea that this bill is even in front of the legislature and are therefore unfairly represented in this process. Most if not all of the homeowners charge their clients the tax based on looking at the VRBO and other online sites.

This bill not only seems unconstitutional it is discriminatory to nonresidents. On island residents can be just as negligent in paying the GET & TAT as a non island resident. At all levels of government, whether it be state or federal, the consequence for not paying taxes when due is to impose interest/penalties on past due amounts. If it is willful fraud, the agency should then pursue criminal action. At no level does any other government agency require that your salary/income be received by a third party. We all are bound by law to pay taxes that we owe and if we do not comply, those same laws impose penalties (interest, fines, or jail for fraud). Hawaii already has laws that require any person selling accommodations to collect TAT and GET. If there is a non-compliance of that law, the "crime" is for not paying one's taxes.

In conclusion it seems that the best way to handle the tax collection issue is to hire someone to police it and impose the proper penalties. The DOT needs to inform the homeowners of the proper way to be compliant. Throughout this process it is very unclear whether the cleaning fee is taxable and if so is it GET or both GET and TAT. Education and audits with penalties could solve your tax problem. No homeowner should be forced to use a realtor to rent their residence. **I do believe that if this bill passes that there will be a class action suit filed against the government which will cost much more than paying someone to oversee that the proper taxes are being collected.**

Sincerely,
Gail Baker

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jim Stofer
Organization: Halii Kai 5F/8C
E-mail: jimstofer@comcast.net
Submitted on: 3/29/2012

Comments:

I am writing today to voice my strong opposition to HB 2078 HD2 SD1. I have been a home-owner/renter of my properties for nearly 5 years. During this time, I have seen the islands go through some tumultuous times. While I understand the need for the state to police the payment of taxes from renters of personal properties, I don't believe this law is the way to do it. Here are my reasons why:

- I initially used a property management company to rent out my property. Even though they were located on-site, they did a horrible job of maintaining my home, allowed things to go on that were illegal and/or inappropriate and refused to make my tax payments for me (and for this, I was given the great opportunity to give them 40% of my rental income). They still exist on-site, but I hear from homeowners all the time that the issues I had 4 years ago are still going on.
- Because of the 40-50% commissions that property managers charge, the pricing of my units would go from an average of \$250/nt to \$450/nt. Now that would seem a great tax win for the state. In my experience though, people who rent homes/condos of similar size/location as mine refuse to pay that amount of money more than 50% of the time, thus it would come back to hurt the consumer/state.
- Tourism has been expanding in the past 12 months. If rents increase by 40-50%, I think the state will begin to see a dwindling of this increase and it could cause another recession.
- I purchased a 2nd condo 18 months ago for investment income. If this law is enacted, I will sell that condo. Does Hawaii need more homes for sale in this environment?
- I currently pay over \$20,000/year in transient, general excise and personal income taxes. If this law is enacted, I will not rent my home anymore. I cannot take the risk of lax property managers not taking care of what I hope to be my retirement location someday.

Here are things that you could do:

- Require that all homeowners list their Tax ID's on their VRBO/Homeaway/Similar Websites. That would make it easy to check if they are paying their taxes.
- Hire a few tax collectors. That would be much cheaper and would bring in the money you are looking for.
- Find new ways to educate people (easily) on what they should be doing--this is a problem I know of first-hand since I have had to personally help many people in my complex navigate how to sign up for a tax id and how to pay their taxes. While I am sure there are tax evaders (as there will always be), this law is not the way to solve the issue. You should be encouraging small business owners like me and not discouraging investments in your state. I would believe that this law

would be unconstitutional since I am a non-resident with no voting power and it could open the state up to many law-suits (or a few class-action ones).
Thank you for your time—Jim and Debbie Stofer, Business Name "Halii Kai 5F/8C"

2078 HB, HD2, SB1, Consumer Protection Committee March 30th 9:30 am

Dear Representatives,

I would like to strongly **oppose** this bill. I find it sad that you call yourselves the "Consumer Protection Committee" and yet what you are doing with this bill by even considering it, is penalizing hard working, honorable, tax paying consumers like us. We have always paid our taxes fully and responsibly and should not be the ones penalized because others choose to be dishonorable. You need to find another way to catch the bad guys so that those of us who choose to do it "by the book" don't have to pay the price.

My husband and I have worked and lived on 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 beckoned call if they need anything or for any emergency. These people will be out of work with your new bill; do you want to contribute to Maui's high unemployment and loose their tax payments as well? Our complex has a full time on site manager and fully staffed office that cares for residents and guests.

We worked hard and for many years to buy our own Maui home and we want to be our own property managers of our home, so that we can screen who will be using our property 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 property management company and the unit was in serious disrepair and unclean; yet they charged huge sums to the property owner and claimed it was well cared for and that the guests they booked treated it well. We know this not to be true, because we saw it first hand when we rented it before buying. The owner was appalled when we sent him photos.

The unit was very dirty, drapes had hems torn and hanging down, the sheets were very worn and did not even come close to matching; the pillows old and pretty disgusting. The carpet was dirty and in disrepair. The towels were stained and old; yet the owner claimed he had repeatedly supplied new linens, pillows, and towels. The bathrooms were unclean with moldy tiles and the kitchen was unkempt as well. We had to completely deep clean and repair the place before we could even live there ourselves

We did not use our life savings to have to pay others a commission to rent our place to just anyone and allow any number of people to stay at one time; and to have any trust they will care for it as we do. 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 part time family home. It is not right to force this on honorable tax paying citizens and it is unjust to just target off island residents. I have paid every cent of taxes due, PLEASE DO NO PENALIZE US FOR OTHERS WRONG DOING.

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. Would you turn your home over to a rental management company?

Thank you,
Janet Crews

Dear Legislators,

I am opposed to bill HB2078 HD2 SD1. Stop over-legislating our country. A homeowner has the right to sell, buy, rent or otherwise use their property as they wish without the assistance of a realtor. You have overstepped your bounds once again. Perhaps your time is better spent helping us unemployed citizens find jobs! Get your priorities straight or expect to loose my vote and the vote of many concerned citizens come November.

Regards,

Tom Soucy
19980 Sassoon Place
Saugus, CA 91350
661.993.3450
tjsoucy@aol.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ed Kelly
Organization: Individual
E-mail: edkelly50@gmail.com
Submitted on: 3/29/2012

Comments:
Aloha,

My wife and I are owners of a beautiful vacation property in Maui and we absolutely enjoy being our own property managers. We are both retired and spend several months of the year in our condo, but enjoy allowing others to rent it on a weekly basis. We have done all the correct things in paying our property taxes and reporting our rentals for GE and TAT taxes.

I urge you not to take away the right for us to continue to operate our vacation rental as an interested owner and please do not force us to utilize a paid professional. All this does is increase our cost and will drive the rental rates so high that we will not be able to maintain ownership of the property.

If the worry is loss of property taxes, GE and TAT taxes then please address that issue directly and please do not shotgun the attack; you will injure perfectly well abiding people like my wife and me.

Thank you for your attention and consideration.

Mahalo,

Ed and Annette Kelly

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Janet Leahy
Organization: Individual
E-mail: jgleahy@telus.net
Submitted on: 3/29/2012

Comments:

We oppose this bill as it will detrimentally impact Hawaii's tourism! Costs for tourists to visit these beautiful islands will increase dramatically and limit affordability for many. Property Management companies are not always diligent and some do very little for the large percentage fee they take. It is much better for tourists to deal directly with the holiday property owners to get the best service and the best rates. Do not pass this bill! We do not want to stop coming to PARADISE because it becomes unaffordable!

Aloha,

My wife and I are owners of a beautiful vacation property in Maui and we absolutely enjoy being our own property managers. We are both retired and spend several months of the year in our condo, but enjoy allowing others to rent it on a weekly basis. We have done all the correct things in paying our property taxes and reporting our rentals for GE and TAT taxes.

I urge you not to take away the right for us to continue to operate our vacation rental as an

interested owner and please do not force us to utilize a paid professional. All this does is increase our cost and will drive the rental rates so high that we will not be able to maintain ownership of the property.

If the worry is loss of property taxes, GE and TAT taxes then please address that issue directly and please do not shotgun the attack; you will injure perfectly well abiding people like my wife and me.

Thank you for your attention and consideration.

Mahalo,

--

Ed and Annette Kelly

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Simon Zemel
Organization: Individual
E-mail: jmszdv@aol.com
Submitted on: 3/29/2012

Comments:

I have rented our special condo privately for 11 years. I will not allow others to manage and rent my maui condo which I have owned for over 35 years. It is unethical to force us to use others to rent my home. I have taken such meticulous care of our condo and have no problems with guests. This direction is absolutely against the constitution. Here is part of a paragraph that was sent to the Hawaiian State Senate by one of the representative law firms (from the VRBO / Home-Away email):

As I know you know, this is all driven entirely regarding certain people wanting more profit. It is unconstitutional. Very upsetting and honestly scary. We pay thousands of dollars a year in taxes. It is our right to manage our own condo. Thank you Simon Zemel

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No

Submitted by: Diane Fontaine
Organization: Individual
E-mail: vancouver.fontaine@gmail.com
Submitted on: 3/29/2012

Comments:
Opposing HB2078 HD2, SD1 Amended

Opposed to inserting "middle-man" between owners and vacation renters: owners we have dealt with are very responsible, taxpaying citizens who provide value to the state and tourists. Based on our experience over the past 10 years, we do not see any added value to employ property managers or realtors as owners have a vested interest in ensuring their renters return. Property managers and realtors would generally be more interested in short-term commissions than establishing long term relationships with their clients, thus resulting in a negative effect on tourism and state revenue and image.

Property managers are the only ones to benefit from this law, everyone else, including the state, loses!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dennis Garlock
Organization: Individual
E-mail: dvgarlock@pacifier.com
Submitted on: 3/29/2012

Comments:
NO, not again.
This is a misguided attempt to legislate away vacation rentals by individual owners. It is an attempt to hold back innovation and utilization of the internet in favor of the business plans of some outdated vacation rental organizations (property managers) who happen to be realators.

The justification (tens of millions of dollars in lost tax revenue) comes from the back of a cocktail napkin. There have been no studies to back it up. There was a study by some committee some time ago that proved just the opposite. If this bill is approved, the unintended consequences might just be to stifle the recovery Hawaii is having in the tourist industry by immediately taking the individual owner rentals off the market. That also would reduce the tax intake, as all of the individual owners that I know have a tax ID and pay their taxes. Also, many individual owners need the revenue in order to pay for the high priced housing they purchased. Might they go into bankruptcy or put their units on the market? What would this flood do to prices, and property taxes as a result.

Exemption? What is it? Spell it out!

Non island residents only? Unconstitutional!

The purpose of this proposed legislation has not been stated clearly. In my business we always defined the problem before attempting to find a solution.

One possible remedy (if one is actually needed) would be to require a tax id for every property sale that could be a vacation rental. I believe there is something that goes out periodically that asks if an owner is renting property. It would seem that the state or counties have data on all properties and could cross check for tax ID's.

It is the state's duty to collect taxes, not a property manager or realtor.

Thank you for the opportunity to put in my two cents.

Dennis Garlock

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Davi

Organization: Individual

E-mail: fscrooner@hotmail.com

Submitted on: 3/29/2012

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 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michel Fontaine
Organization: Individual
E-mail: midijast@telus.net
Submitted on: 3/29/2012

Comments:

Opposing HB2078 HD2, SD1 Amended

Opposed to inserting "middle-man" between owners and vacation renters: owners we have dealt with are very responsible, taxpaying citizens who provide value to the state and tourists. Based on our experience over the past 10 years, we do not see any added value to employ property managers or realtors as owners have a vested interest in ensuring their renters return. Property managers and realtors would generally be more interested in short-term commissions than establishing long term relationships with their clients, thus resulting in a negative effect on tourism and state revenue and image.

Property managers are the only ones to benefit from this law, everyone else, including the state, loses!

Consumer Protection Committee March 30th 9:30 AM

I am opposed. It is unconstitutional and will be a devastating effect on my life's income.

Evelyn Gannon
19595 Oakdale Lane
Huntington Beach CA, 92648

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jennifer Shipley
Organization: Individual
E-mail: jennshipley@gmail.com
Submitted on: 3/29/2012

Comments:

HB 2078 Testimony

I strongly oppose this "anti small business/anti tourism" measure. This proposed law is backed by the large real estate management companies because it will eliminate their competition and increase their business at the same time! It will force thousands of small business owners who manage and rent their own properties to either shut down or incur substantial cost to hire these outside rental managers that typically charge 40% to 50% of the rents. The small business owners who are forced to hire these managers will have to increase the rent charges to attempt to partially offset this additional expense. The increased rental rates will in turn reduce tourism to the State which reduces tax revenue. Property values will drop more than they already have if rental units are forced off the market because renting is no longer "feasible" -- I can't use the word "profitable" since most rental units are not profitable even before this proposed legislation which will drive the nail in the coffin for most struggling small rental owners.

I am an individual who owns two apartment units that I manage on my own. I have always remitted the Transient and Excise Tax payments to the State of Hawaii on time. I understand that the State is concerned that some individual owners may not be remitting the required taxes. Instead of hurting all these small businesses, why not simply require them to post their Hawaii business license number in all advertising? This would make it very easy for the State to verify that the owner is indeed remitting the required taxes. Don't punish the majority of law abiding owners who pay their taxes because of some small number of tax cheaters.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jennifer Shipley
Organization: Individual
E-mail: jennshipley@gmail.com
Submitted on: 3/29/2012

Comments:

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: James Honniball
Organization: Individual
E-mail: jhonniball@sbcglobal.net
Submitted on: 3/29/2012

Comments:

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rick and Linda Laforet
Organization: Individual
E-mail: lindalaforet@gmail.com
Submitted on: 3/29/2012

Comments:

We support paying Hawaiian taxes and contributing to the State of Hawaii and to Maui, but we are opposed to inserting property managers or realtors into the equation. We bought our condo in 2005 and relied on a rental company to rent it for us. They were only able to rent it 1-2 weeks a month and took 40% of the income. Some months we didn't even get a renter. They charge a higher rental fee and are not competitive. In 2009 we started using VRBO and have been successful.

The proposed new Law is unconstitutional as it targets non-residents instead of residents.

Exemption needs to be spelled out and explained fully in any proposed legislation.

Tourism is coming back, this could have devastating effect on it.

Real estate is slowly coming back, this will make it so owners cannot afford to keep their properties and would have to sell - flooding the market. Currently, there are 450 condos and single homes in the process of foreclosure in West Maui. This bill could double or triple the number of foreclosures.

Property managers are the only ones to benefit from this law, everyone else loses! They don't screen guests as well as we do, they can overbook, they can have problems with billings and accounting.

We love Maui and are strong ambassadors for Hawaii!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Brown
Organization: Individual
E-mail: marilyn7b@yahoo.com
Submitted on: 3/29/2012

Comments:

I respectfully submit the following testimony for your consideration:

I agree with the intent of HB2078 HD2, SD1 Amended but the with the wording of the term of rental agent should be changed to a designated local contact. I fully support the proper collection and payment of taxes. I respectfully OPPOSE the Bill in its present form. My reasons are as follows:

Those of us who have been managing our properties, compliant state and county laws and with the collections and payment of all taxes, and filings and should not be penalized and forced to contract with a realtor who charge excessive and unnecessary fees and many are not in compliance with the collection and payment of taxes.

The Exemption needs to be spelled out and explained fully in any proposed legislation - those who have been in compliance should not be penalized.

The Law is unconstitutional as it targets non-residents instead of residents.

Tourism and real estate is on the upswing in Hawaii - this Bill would negatively impact both.

Many of us have been struggling to hang on to our properties in this dismal economy. If forced to pay 30 - 40% management fees to Realtors we will be forced to sell our properties and the state will be flooded once again with under priced real estate.

As vacation rental owners we currently provide legitimate and affordable accommodations to guests bringing millions of dollars into the Hawaiian economy.

Feedback I have received from guests visiting are overwhelmingly in favor of renting from owners. Not only are the properties maintained better, they receive more personal service and are more likely to return as a repeat visitor.

We already provide our On Island Managers information to our Home Owners Association as required by the CC&Rs of the associations.

Unfortunately possession of a Realtor License has not guaranteed compliance of collection of taxes or managing properties in the best interest of the state, property owner or the visitor.

Many property owners such as myself have turned to managing our own properties with the assistance of a responsible On Island local contact. The reasons are because of unscrupulous practices by property management companies. We all have had bad experiences and horror stories including overcharging, unauthorized use of our property by their friends and family, using our condo for a party pad for themselves, managing agents receiving kick-backs from vendors who overcharge for repairs, carpet cleaning, a/c servicing, overcharging for replacement of broken items (\$175 for a new coffee maker! etc), items stolen, non-payment, sloppy or non existing bookkeeping, sudden closure of the property management business - the list of horror stories are endless.

My personal experience with Property managers managing a multiple properties is that they do not effectively screen potential guests as thoroughly as an owner or a person managing a few properties. Resulting in property damage from the

property being used as a party pad and more persons staying than are authorized. In one instance in our complex 23 persons had to be forced to vacate a weekend rental of a condominium with a maximum occupancy of 7 persons.

The Tax Department and counties already have all the information required to conduct audits and insure taxes are being properly collected and paid. Inserting the term Realtor or Property Manager does not insure compliance. With today's technology monitoring tax compliance should make no difference if the owner/manager resides on out of state.

I strongly urge you to oppose this Bill in its present form.

Respectfully,

Marilyn Brown
1734 NW Farewell Dr, Bend OR 97701
marilyn7b@yahoo.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: henry gross
Organization: Individual
E-mail: maryhank@att.net
Submitted on: 3/29/2012

Comments:

If this bill is passed into law, I probably won't be returning to the islands. When my wife and I come we rent a car, buy food, go to supper every night , buy gifts for our families, go on tours. We spend a lot of money across every area of your islands...Florida will be more financially acceptable!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kevin Brown
Organization: Individual
E-mail: kevinbrown9999@yahoo.com
Submitted on: 3/29/2012

Comments:

I respectfully submit the following testimony for your consideration:

I agree with the intent of HB2078 HD2, SD1 Amended but the with the wording of the term of rental agent should be changed to designated local contact. I

fully support the proper collection and payment of taxes. I respectfully OPPOSE the Bill in its present form. My reasons are as follows:

Those of us who have been managing our properties, compliant state and county laws and with the collections and payment of all taxes, and filings and should not be penalized and forced to contract with a realtor who charge excessive and unnecessary fees and many have been found to be not in compliance with the collection and payment of taxes.

The Exemption needs to be spelled out and explained fully in any proposed legislation - those who have been in compliance should not be penalized.

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Tourism and real estate is on the upswing in Hawaii - this Bill would negatively impact both.

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In one instance in our complex 23 persons had to be forced to vacate a weekend rental of a condominium with a maximum occupancy of 7 persons.

The Tax Department and counties already have all the information required to conduct audits and insure taxes are being properly collected and paid. Inserting the term Realtor or Property Manager does not insure compliance. With today's technology monitoring tax compliance should make no difference if the owner/manager resides on out of state.

I strongly urge you to oppose this Bill in its present form.

Respectfully,

Kevin Brown
1734 NW Farewell Dr, Bend OR 97701
kevinbrown9999@yahoo.com

I oppose HB2078

KennethMartin
55-165 Naupaka St.
Laie, Hi. 96762
808-293-1447

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:
I oppose HB2078

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: James Honniball
Organization: Individual
E-mail: jhonniball@sbcglobal.net
Submitted on: 3/29/2012

Comments:

I support paying tax and have been – but are opposed to inserting property managers or realtors into the equation. Property managers will make the rental more expensive to rent.

The law is unconstitutional as it targets non-residents instead of residents.

Exemption needs to be spelled out and explained fully in any proposed legislation.

I was just on Maui and tourism is coming back, this could have devastating effect on it as tourist will have to pay higher rental fees to property managers in order to rent units.

My name is Richard Genovese and a new property owner in Maui HI. I am a Canadian resident and have gone to considerable expense in order to abide by the laws of HI and pay my HI tax. I support paying tax that is owed, but I do not want to deal with property managers or realtors. This is unconstitutional as it hits nonresidents instead of residents. See what happened to the real estate market if this bill passes. You will force most of us out of the market driving down prices and you will feel the heat and probably be voted out of your positions for this un-American bill. This will sway people away from investing in HI and keep them away. Property managers benefit, everyone else loses!!!! Thankyou Richard Genovese Vancouver BC CDA

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 have always paid both the GET and TAT taxes that were due when they were due.

From our experience, owners who handle the rental of their vacation property(s):

- Maintain it in better condition than property managing agents or Realtors. This pride in ownership increases visitor satisfaction and repeat occupancy and fosters the Aloha spirit.
- Enjoy better occupancy than “Realtor or licensed management companies” properties and therefore pay more GET and TAT to the State of Hawaii.
- Offer a better value to potential visitors thus bringing more visitors to Hawaii with the accompanying benefits to local businesses and thus tax revenues.
- Help to maintain and increase the value of each unit in a complex by making the purchase of the property more attractive and affordable to buyers thereby supporting increased sales prices and property tax valuations the resultant of which is greater tax revenue for the State of Hawaii.

HB2078 appears to have been drafted to support special interests and seems more punitive than fiscally productive for the State of Hawaii. The claim that “there are a sizeable number of owners who do not” pay TAT is totally unsupported and undocumented. If it can be documented, there are current laws in effect which can be used to collect unpaid TAT as well as accompanying

penalties. From personal experience, there are documented cases of Realtors and property managers who have commingled funds and went out of business through bankruptcy or sanctions by the Real Estate Commission.

The "consumer protection issue" cited in the bill also has no supportable documentation. If owners who advertise on the primary "vacation rentals by owner" sites do not fulfill their advertised claims, the visitor can lodge a complaint with the listing site which can result in their being de listed. Additionally, the visitor has the right to post a review which further protects the "consumer" by providing actual "user" experience. This "consumer protection" is a lot better than the "consumer" gets from general product advertising that is aired on TV and/or presented in newspapers.

If owners who handle the rental of their property have to turn their rental property over to real estate brokers or sales people or property management companies, the State of Hawaii will lose much needed revenue without any real rationale. This will result from owners turning their units into long term rentals; lower rental revenue; decreased TAT and GET and stagnant or lower property value not to mention the real possibility that owners will walk away from properties due to the increased negative financial burden.

There is an old business expression "if it ain't broke don't fix it." **HB2078** will not fix anything. Claims that millions of dollars in revenue to the State is being lost is totally without foundation. **HB2078** does not appear to be either equitable to non-resident property owners or beneficial to the State of Hawaii. It is in fact, just the opposite. There is a reason why so many owners handle the rental of their properties themselves and the reason is certainly not to avoid TAT. It is to provide revenue with which to help make vacation property ownership more affordable and **enjoyable** for visitors as well as themselves. No Realtor or management company will/can give the attention to visitor satisfaction that can meet the standards of an owner who also uses the property themselves.

Thank you for your consideration.

Ross & Arlene Jasper
4071 W Harrison Street
Chandler, AZ 85226
jasrbj@aol.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Linda Work
Organization: Individual
E-mail: Lcwork@hotmail.com
Submitted on: 3/29/2012

Comments:

As owners of two condominiums on Maui which we rent and manage ourselves, we strongly oppose HB2078 HD2 SD1 Amended.

We support paying taxes but are absolutely against any requirement to designate an on island management company or realtor as it would only benefit management companies and everyone else loses. This serves no purpose as we already provide our guests with the contact information for our designated local representative. This violates our rights to own property and not be able to manage it ourselves. The exemption to this requirement is unclear and needs to be explained.

We collect, report and pay all taxes and this legislation clearly discriminates against property owners with its primary intent to only benefit special interest realtors. Forcing owners to use management companies violates our freedom of choice, puts our investment and Maui home at great risk. This will hurt tourism and the real estate market.

Requiring independent owners to list the local contact information in our advertising listings would confuse the guest as to who they should contact in addition to being a privacy and security risk. We will not relinquish control of our property for a special interest power grab! Please vote NO on this proposed legislation.

Respectfully submitted,

Linda Work
The Whaler, Maui

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carrie Cooney
Organization: Individual
E-mail: Ccooney223@gmail.com
Submitted on: 3/29/2012

Comments:

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: James Casper
Organization: Individual
E-mail: info@mauitownhouse.com
Submitted on: 3/29/2012

Comments:

We oppose HB2078 HD2, SD1 Amended. Our business name is www.MauiTownhouse.com. We support paying all due taxes to the state of Hawaii and the federal government, but we are opposed to inserting property managers or realtors into our business, as they are the only ones who will benefit from this bill. Raising costs for condo owners will require that we pass on those costs, which may make Hawaii less competitive as a vacation destination. We believe the Hawaiian legislature has not done enough to educate the public about complying with their financial obligations, which would be a less honourous way to raise revenues. This law is clearly unconstitutional, as it targets non-residents as opposed to residents. Already several grass roots organizations are taking shape to "fort up" against the honourous laws that the legislature of the state of Hawaii is trying to enact. We have been put in touch and will support these organizations in a bid to protect our private property and to encourage tourism to Hawaii.

To our respected public servants.

I own and rent a condo at the Kaanapali Royal at 2560 Kekaa Drive in Lahaina on Maui. I bought this last year as a second home. The only way to afford it is to also rent it myself on VRBO.com/353625. After purchasing this property I payed over \$80,000 in labor creating about 4 jobs for 5 months. In addition there were over \$80,000 in materials and furnishing also enjoyed by the local economy.

I also collect and pay the GAT and TAT taxes.

To have a requirement that I use a realtor would have a number of potential adverse consequences. I will have to raise rated to cover this unnecessary expense. I will lose the ability to screen my renters to make sure their needs match what they need. By building personal relationships with them they take better care of my property.

If this law passes the possible consequence is that I will be less inclined to rent the property out and keep it as a second residence. **The adverse result will be that I pay less tax on the property and would no longer collect thousands of dollars in GAT and TAT taxes.**

Another possible adverse consequence is that marginal owners will be forced to sell which will further depress a real estate market than needs to recover.

I strongly urge this bill be defeated or allow individual owners renters to continue to pay GAT and TAT directly. The need for a real estate agent while good for them an their lobby is bad for the owners, bad for the county and bad for the State of Hawaii.

I urge this law not make it out of committee.

Glenn Bodinson, FACHE
(972) 489-5430
www.BaldrigeCoach.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Brad Tomlinson
Organization: Individual
E-mail: pullbuoy@hotmail.com
Submitted on: 3/29/2012

Comments:
Opposing HB2078 HD2, SD1 Amended

Dear Sir or Madam:

I am against the above bill for the following reasons:

- it is discriminatory against non-residents and likely unconstitutional
- the objective, to collect tax can be accomplished by requiring people to use an accountant to file their taxes and assess what taxes are owed.
- The owners who will be hurt here are the people who are law abiding and already collecting tax. I for one already collect your taxes as required. I just this morning collected \$793.79 in transient accommodation and excise tax which will be remitted this quarter.
- Costs associated with paying property manager will have to be passes on to renters which will raise prices substantially and cause tourists to choose other, cheaper designations
- Many owners will choose to sell and this will decrease the value of everyone property as units flood the market.

- There are existing laws in place to collect tax and you should focus on enforcing them as people who are flouting the current laws will no doubt ignore the requirements to use a property manager.

- local realtors are not in favour if this law please find below a response I received from The Hawaii Association Of Realtors:

Hi Brad Tomlinson, The Executive Officer of Hawaii Island Realtors whom you wrote to asked me to respond to your concerns.

I am a Realtor with an office on Oahu & Hawaii Island. I am a member of the Hawaii Assoc. of Realtors (HAR) Government Affairs Committee (GAC). SB2089 and others with a similar purpose are NOT Realtor bills. Some real estate licensees who may also be members of HAR have talked to their legislators about owners they feel are not paying appropriate taxes. These legislators have introduced the bills. The HAR GAC has been monitoring the bills because they have in impact on real estate and our clients.

We at HAR strongly support private property rights for all who follow the laws affecting those private properties. I hope you are in a position to continue to enjoy your property purchased in Hawaii for many years to come. With Aloha, Mary

Mary Begier, Realtor®; CRB, CRS
Principal Broker
Mary Begier Realty
Big Island Off. 808-935-0737
Honolulu Off. 808-733-5562
Toll Free 800-728-8555

Please vote against this bill which will be bad for all Hawaiians except for property managers who are trying to make a buck at everyone else's expense.

Sincerely,

Brad Tomlinson

Dear Legislators,

I have been to Maui five times and have never needed the services of a real estate professional. I have had great success renting via the internet with condo owners directly. It has been my experience that those owners have made tremendous efforts to supply their renters with the most complete information to make their stay pleasant and to protect the island traditions. I think you will harm the tourist industry with this legislation, rather than improve it. Please vote no on this legislation in all its forms.

Sincerely,
Sharon Oldham
sloldham@yahoo.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas j Reger
Organization: Individual
E-mail: Trxb5680@aol.com
Submitted on: 3/29/2012

Comments:

I have rented poor accommodations from management companies and have done much better renting from private owners!!!

Dear Sirs;

I respectfully want to request that this bill be voted down. We are opposed to having property managers and realtors handle all property on the islands. This does not allow for the individual condo owners to manage their own property, which totally discriminates their own rights to manage, rent, and be involved with their condo units. We have used both Hawaii Property Managers and then individual owners on VRBO-Hawaii. Undoubtedly the VRBO owners are more personable, and are professional, and create a great personable touch that has enticed us back every time!. Left to the real estate managers...who we are just a 'number', more headaches, quick phone calls that 'hurry along' the renter....If this happens we will fly somewhere else to enjoy the sunshine. Please vote this down if you want to encourage more tourists to enjoy your wonderful state.

Respectfully;

Curt and Becky Brouwer
23933 W Woodway Lane
Woodway,WA 98020

Renting directly from the owners is a very good way to get the "personal experience" of the island. They have more knowledge of the unit, area and everything else you need to make your vacation a winner. I have done this for the last 10 years and have always enjoyed the personal touch. Having a friend in the islands make the vacation easy and relaxing, knowing that just a phone call away is a person that is totally concerned about me and my family, not everyone else. Please vote this bill down once and for all and get on with the really important stuff concerning ALL of the people, not just a select group.

Sharon Schwarz, srschwarz@comcast.net

Aloha!

We have owned our condo at the Valley Isle Resort, Unit 206 since 1986. We have paid our TAT and GET taxes ever since we started renting to guests. There has never been a complaint about us, ever!!! We have built our business and now have over 400 names on our customer data list. They are all familiar with us and expect to do business with US. Our profit margin is very slim. If we must

now share that with a management firm, we may not be able to afford to continue. That would break our heart. Please rethink this bill and vote no.

Mr/Mrs William Harvey
2468 Meandering Way
China Spring, Tx 76633
254-836-1699

Mahalo!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lindsay Hughes
Organization: Individual
E-mail: frogndoos@att.net
Submitted on: 3/29/2012

Comments:

Dear Senators,

I am a nonresident condo owner who opposes HB2078 and all of the other like transient bills (HD2,SD1 amended) before your consideration. I know we can't vote but I believe the non residents tax payers 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

This serves to voice my opposition to both of the bills stated in the subject line of this message. I have rented homes all over the U.S. Including Maui, from individual home owners. If they are not residents, I have still had all my concerns addressed by both personal property managers. My experience has been that the owners/property managers provide superior customer service as compared to the real estate agency reps who are usually too busy to address my needs in a timely manner. I also look to rent homes from individuals, as opposed to agencies, when traveling as they are able to provide detailed information on the property and are always a better "bang for my buck". If allowed to pass, these bills would certainly affect my desire and ability to travel to a destination such as Hawaii.

Denise Schnitzer
Chesapeake, VA

March 28, 2012
David L Towry Sr.
Pamela J Towry
konayogi@msn.com
pitowry@hotmail.com

Opposing HB2078 HD2, SD1 Amended
We oppose this as amended

Ladies and Gentlemen, please do not pass this law as amended.

PLEASE READ THIS LETTER TO THE END.

I do not oppose enforcing tax compliance, and penalizing those who are not paying their fair and required amount of taxes.

At the same time, consideration should be given to the thousands of owners who are in compliance and not penalize them. I think the amendment tries to accomplish that in subsection (D) by providing an exemption, however it is ambiguous and does not address what someone would need to do to "***obtain an annual tax clearance from the department***" nor is there anywhere in the law that defines who "***The Department***" is. The other issue with this subsection not explained is ***why*** this IRS 990 nonprofit form is needed.

What bothers me the most is I do not believe ***anyone fully understands*** the impact and consequences this bill could have? And many feel would have!

I have not seen or read about any studies that have been done to analyze the impact to the;

- *Tourism industry in Hawaii*
- *Vacation rental rates*
- *Property Values*
- *Would actual tax compliance improve or would it diminish?*
- *Will more tax revenue actually be generated?*

- *Will price gouging occur by Property Management Companies because they now have a **mandated captive market***
- *Will the actual management of these properties improve or diminish?*
- *Are there enough Real Estate and Property Management companies to take care of everyone?*

Can you answer these questions? If not this bill should not move forward!

What we have here may be a tax compliance problem, **not a property management problem**. What I would suggest is to not take any action on this bill now, and form a "Citizens Advisory Council" to work on a solution to this possible tax compliance problem.

We have owned vacation properties in Oregon and Hawaii for 25 years. Our property in Hawaii for 11 years, 5 of which we used a big management company, the last 6 years we have managed our self in Hawaii with the help of local contacts. I can tell you this from my experience; it would be the rare exception that a Property Management company could ever manage a property as good as the property owner.

The reason is simple; the Property Management Co ***"Has no skin in the game"***. They have nothing invested in the property being managed. The property owner has everything invested and everything at risk. There is no one that can do as good of a job with my property as I will. Oh sure, they have a business name, rent and other expenses and payroll to make. But if your condo gets trashed, or they don't rent it as much as they could it is no skin off their B*TT. The property owner suffers all the loss, not them! When they take management of your property they are responsible for nothing and they do not promise you anything.

And under this law they would not even care, they would just go find another one because property owners would be standing in line for their services. **Because of this LAW that says you have to use them.** Talk about killing competition and free enterprise.

This bill has so many potential negative consequences, with only one potential hoped for result; that more tax revenue is collected. Will it be?

Each one of these thousands of Vacation Rentals are small businesses, the vacation property owners have a vested interest to manage their property responsibly. As a whole no one will do a better job than they will do. They should not be told who is going to manage it for them. If they want to do it themselves or hire someone they choose it should be there decision not the governments.

The problem you perceive is tax compliance, not a management problem. The very worst part of this bill is the mandatory use of a Real Estate property manager. I honestly feel this bill will generate LESS tax revenue and be an absolute nightmare to try and enforce. You would be better off to do nothing and concentrate resources on enforcing laws already on the books.

What is needed is a citizen's task force made up of representatives from all interested parties to come up with a plan to enforce tax compliance. It is imperative that all interested be represented. There is a good solution, **however HB2078 is not it. Please Start Over.**

I would not even mind a third party that would collect the rents using a client trust account. They could do the accounting, GET and TA reporting, periodic payments and disperse payments to

owners. They would act in the same capacity as a collection agent that reserved for property tax and insurance on land sales contracts.

There are a lot of different businesses you could use for this purpose. It would not have to be a Realtor or Real Estate agent, although it could be. It could be a Title co, or a Bank or a CPA firm or a bookkeeping company or how about a new business that came about **BECAUSE** of this law..... how about that! It could create a new cottage industry.

HB2078 is NOT the solution!

It is imperative that whatever you do **"LET THE PROPERTY OWNERS"** manage their own property if they choose. Let them take care of the bookings and screening the inquires. Let them and their local contacts have responsibility for the day to day operations of the property. Let them select and work with their own cleaning and maintenance people.

Owner managed Vacation Rentals is a good industry! Do not mess it up with SB2089

There is not a doubt in my mind if this bill is passed in its present amended form there will be a well funded successful legal challenge.

Respectfully submitted on March 10, 2012 for your consideration,

David L Towry Sr & Pamela Towry

konayogi@msn.com

pitowry@msn.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dana Seagars

Organization: Individual

E-mail: d_seagars@yahoo.com

Submitted on: 3/29/2012

Comments:

This bill will force me to sell my retirement home, a portion of which I rent out to vacationers, and move off Oahu to to whew here more investor friendly. Note: I pay all TVU and GET taxes. This bill is BAD for Hawaiian economy!! Please defeat this bill!!

I oppose this bill!

I was in Maui at a VRBO last March during the Tsunami scare. There was nothing a real estate manager could have done besides drive up the cost to me.

There is no value add with this bill to the consumer. This is a money grab pure and simple.

I believe that Hawaii is still part of the United States, is it not? So people should be allowed to do what they want with their property. Including renting it out in a private manner.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: jeff Jenneve

Organization: Individual

E-mail: vacation@islandadventures.com

Submitted on: 3/29/2012

Comments:

AS HB2078 HD2 SD1 HAS BEEN MATERIALLY ALTERED TO INCLUDE THE PROVISIONS OF SB2089, WE RESPECTFULLY REQUEST THAT ALL TESTIMONY SUMMITTED FOR SB2089 SD1 BE INCLUDED IN THIS HEARING.

A significant portion of those who testified for or against SB2089 SD1 are not unaware it's provisions are up for consideration once again under HB2078 HD2 SD1. Their voices should not be discounted because a meandering of bill numbers has occurred....THE ISSUES REMAIN THE SAME!

This Bill threatens a massive disruption to the Hawaii Tourism economy and real estate markets. More study is needed to avoid unintended and dire economic consequences.

- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased there properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.

- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo unit that must be rented through a management operator is less valuable than one that can be lawfully rented by it's owner.

- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a defacto monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system that lists both owner-managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.)
- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by impersonal management firms. The experience of connecting the owner to the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.
- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mis-treat their guests. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.
- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner responds to dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.
- Visitors will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '

- Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.

- Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units so that the tax filings can be monitored and non-paying owners brought into compliance. Owners who are already in compliance with State laws, and who pay their taxes, should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and PLEASE VOTE NO on HB2078 HD2 SD1

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: C. Jorgensen

Organization: Individual

E-mail: cejorgensen@comcast.net

Submitted on: 3/29/2012

Comments:

I oppose this measure as Property managers are the only ones to benefit from this law, everyone else loses! It is unconstitutional as it illegally targets a certain group of individuals.

I am opposed to this bill, and passing it will most certainly cause the existing condo prices to increase. We have been visiting Hawaii for 20 years and ALWAYS have rented through private owners, never experiencing any problems that were not promptly addressed. If this bill is passed, and condo rates increase (which they most certainly will have to) - we will start exploring different parts of the world such as the Carribean.

Please oppose this bill.

Sincerely

Suzanne Farnsworth

Denver, CO

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Simon Williams

Organization: Individual
E-mail: sandswil@gmail.com
Submitted on: 3/29/2012

Comments:

As responsible Condo owners, We oppose this legislation on the grounds that it is discriminatory. Making the majority suffer for the actions of a few. This will only increase the cost to everyone, owners and renters.

This discriminates against the small individual property owner and is biased towards the big property managers who take up to 50% of the rent for managing a property. By increasing the overhead, this will lower the amount of vacationers that can afford the higher prices thus affecting the local economy indirectly plus it will put downward pressure on the real estate prices of the vacation properties.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elizabeth Jones
Organization: Individual
E-mail: lizjonesd@gmail.com
Submitted on: 3/29/2012

Comments:

Please do not pass this bill requiring owners to employ a real estate agent in order to rent their property.

I have rented my condo home for 11 years and paid the TAT and GET taxes every month. The rentals help the State of Hawaii and have enabled me to continue to own my home. Forcing me to employ a real estate agent whom I don't know would be a disaster for me. The details of renting and using my home are involved and an unrelated agent would not be able to advise, direct and negotiate successfully with a client. I am able to rent it out because I am the owner and I deal personally with the clients. I would also have to give a big percentage of the rent to an agent who would have done virtually nothing and which I cannot afford.

It is wrong to think, that by employing real estate agents, that they will collect money from tax cheats. The cheats will continue to cheat. The real estate agents will get rich and the owners will suffer. It is the State's job to collect it, not shove it off onto owners who pay taxes.

Thank you for your consideration,
Liz Jones

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:
Opposition to Senate Bill HB2078 HD2 SD1

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

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cynthia Richardson
Organization: Individual
E-mail: cyntravel@yahoo.com
Submitted on: 3/29/2012

Comments:

I am writing in opposition to HB 2078

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. If there is a waiver process it needs to be spelled out in the legislation clearly and in detail.

*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 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. We believe taxes should be paid; asserting property managers into the situation is not the way. It increases costs.. considerably.. to owners and does not assure your end result.

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? If there is to be an exemption for owners who pay their taxes, the process needs to be straight forward, not cumbersome. Please make it clear in the legislation exactly how the process will be implemented.

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. We believe that potential rental guests would find it very confusing if we were to advertise our on-island agent's contact information before we secure the rental. We owners need to be the responsible rental management party. We give our guests the on-island contact information when the rental is secure .. payment made.. and we send a load of information to our guests about their stay in our condo.

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

Dear Legislature:

I am opposed to **HB 2078 HD2 SD1**. The bill appears to be written in an effort to give Hawaii Real Estate and Property Management companies financial gains and control over vacation rental pricing and competition. The wording in **HB 2078 HD2 SD1** unjustly imposes governmental restrictions on non-resident owners of transient accommodations, strictly for the advantage and economic benefit of a specific targeted commercial industry.

I have purchased several units over the years and pay Hawaii taxes through a private firm who pays, records, documents, and calculates my tax obligations to the State of Hawaii. I have an assigned agent who is available 24 hrs per day and responds to all and any issues regarding my vacation rentals. Our units are popular and are booked months to years in advance because we meet or exceed the needs of each and every one of our traveling guests.

Under this legislation, you are punishing property owners who diligently have complied with the tax and excise laws of this state. It may also force the termination of assigned managers, housekeeping personnel, maintenance personnel and potentially lead owners of transient accommodations into foreclosure.

I would encourage a change or revision to this legislation in a manner which would protect the fundamental rights of both residential and non-residential owners who have complied with the tax laws and who have created jobs for local people as contact managers, housekeepers, and maintenance workers, while at the same time, identify and correct non-complying owners, regardless if they are a resident or non-resident.

I would recommend the following changes in the reading of this bill

- Any **resident or** non-resident owner who rents or offers rental property as a transient accommodation for periods of thirty days or less **who is found in violation of the excise or transient accommodation tax requirements may by a preponderance of facts by the Director of Taxation be directed to** rent or offer to rent property through a real estate broker or salesperson licensed under chapter 467 **for a period of time to be determined by the Director.** Any real estate broker or salesperson authorized under an agreement with a **resident or** nonresident owner to collect rent on behalf of the **resident or** nonresident owner shall be subject to the requirements or section 237-30.5, 237D-6 and 237-8.5.
- Any resident or nonresident owner subject to subsection (a) that does not comply with the requirements of this section shall be notified in writing by the department of taxation of the noncompliance and of the need to take corrective action within seven **business** days of the receipt of notification. If the noncompliance continues for longer than seven

business days after notifications, the **resident or** nonresident owner shall be fined not more than \$1,000 per day for each day of noncompliance.

- For the purpose of this section:

“Nonresident owner” means an owner of a rental property in the state who resides on a different island from the property or out-of state and who rents or leases property to a tenant.

“Resident owner” is one who resides on the island to which the rental property is located

“Rental property” means a residential single-family dwelling, apartment, or townhouse, owned by a resident or nonresident owner.

Section 2 “No change”

Section 3 “No change”

Section 4 “No change”

Thank you,

John Gablehouse, Owner
360-629-3503
jag1@wavecable.com

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. HB2078 is attempting to place control of the non resident owners property into the hands of a group of people that the supporters of this bill believe will conduct their business in an honest and law abiding fashion, at the cost of the non resident owners:

(1) Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a licensed real estate broker or salesperson;

(2) Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator;

I, and many like myself, have personal experience with the lawless activities that the groups of people in (1) and (2) above have committed. Not only will HB2078 make it illegal for a non resident property owner to manage their own property, HB2078 will force that owner to pay another agent to manage their property and yet the owner will still carry all the risks. Those risks are high and include lawsuits, loss of clients, liens on the property, mismanagement and foreclosure.

I, and many like myself, have seen the sloppy, dishonest and lack of personal interest that an agent takes when managing and promoting property that they do not own. Their interest is only the commission they make, and lack the pride of ownership that only the true owner can have. They do not carry the burden of making the monthly mortgage payment and HOA dues as the owner does. An agent does not have a personal interest in the property, they only have an interest in the commission they make, yet the owner carries all the risk.

I question the intent of this bill. An owner of a valuable vacation property in Hawaii would not easily take the risk of loosing that property by having liens placed on it from not paying their taxes. However, since an agent has no investment or risk, they would be more likely to act in a lawless and dishonest fashion and therefore be more likely to not pay the taxes due. Most owners have huge investments in their properties and would not act lawlessly to risk it.

Many of the online internet advertisements for non resident owners are already managed by agents. If there is a problem with taxes not being paid from internet sales by non resident owners, the agents must also be a part of that.

Ada Eschen

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Merlic, Marian/Ed
Organization: Individual
E-mail: marmen@surewest.net
Submitted on: 3/29/2012

Comments:

1. Marian and I have been owners in Maui since 1986. We spend 6 months in Maui in 2 month intervals, keeping the property in excellent shape, and under our control.
2. We began renting our one bedroom unit through a Maui realtor but found:
 - a. He took all the gains and we paid all the costs, while he did poor housekeeping and rented his units before he rented ours.
 - b. We caught him using our small clothes washer against our instructions. He was avoiding paying cents at our complex's large and reasonable laundromat!
3. We dropped the realtor, and began renting without the cost and irregularities of a realtor, and have continuously paid Hawaiian and County taxes promptly!
4. Your efforts to saddle us with a realtor will force back, on us, all the ills of a realtor. Please note that the extra expense of the useless realtor will force many owners with large mortgages out of business. The extra condos on the market will destroy your real estate market.
5. Your existing laws are sufficient to protect you from scammers.
6. Are you not raising the question of constitutionality of these laws by the bias against non-residents?

My family and I have been vacationing in Maui twice a year for the past 15 years. We have three other families that we also travel with. If the cost is 25% - 40% more for the same condo, we will have to rethink our visit and maybe find a new place to vacation. The cost to fly there is always high, at least we can try to save on the condo. Renting from an owner has always been a great experience and we always pay tax when I rent the condos.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ivar Pedersen
Organization: Individual
E-mail: ivar@ivarp.com
Submitted on: 3/29/2012

Comments:

I am a non resident owner of a condo on Maui. With a direct interest in managing its use, nobody can do a better job in promoting the unit, its location oceanfront or Hawaiian tourism in general, than myself. Also, it is not a good idea to cede the responsibility to pay the taxes promptly, as I do, to a stranger with no ownership responsibility.

Respectfully submitted,
Ivar Pedersen

Hello ,

my name is Joy McDougall , I am a resident of Oahu. I OPPOSE HB2078 HD2, SD1 AMENDED.

I agree all Transient Vacation Rentals should be paying the T.A.T and G.E taxes hopefully so these taxes go back into the community somehow. Yet it seems really odd that a bill can even be made without first permitting TVUs first which is way overdue. The TVU is the new and best way to travel worldwide. The TVU tourist dollar supports lots of families in Oahu and permitting and responsible management is needed to be a good neighbor . Yet, to target short term rentals owned by non-residents and say they must be managed by a realtor is unconstitutional and not really what is needed unless the realtor lives in the neighborhood. All short term rentals should be managed by a close neighbor within a mile or less so there does not need to be any complaints about anything. Even though I see much more complaints about badly managed long term rentals. Longterm rentals that are over crowded with cars, people, dogs and etc are worse neighbors than any short term renters. A bad neighbor is a bad neighbor not matter if they live next to you or in California.

As for taxes... targeting non-residents is not the answer; that will only end up in hurting the already suffering real estate market AND TOURISM . How about going back to the drawing board with permitting and requiring management that lives within a mile of the rental so to give jobs and money to the community directly and having proper management responsible for parking, garbage pick up, orientating guests, noise levels, guests numbers , or whatever complaint there may be. Yet the facts by Zoning , police , neighbors will show very few complaints on short term rentals and much more complaints on long term renters. So if your going to target non-resident owners please include long term rental management as well not just short term rentals.

Thank you for your time.
Joy McDougall

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sylvia Remington
Organization: Individual
E-mail: svandiamo@wavecable.com
Submitted on: 3/29/2012

Comments:

I totally OPPOSE this bill which is taking rights away from property owners. Beside taking away my rights, it is discriminatory being it is written against owners which are off island.

I can understand Hawaii wanting to make sure it collects all due GE and TAT taxes, but to make a law which will punish all property owners that rent their places as vacation rentals does not seem the way to approach this. I personally own 3 condos on the Big Island and always report and pay my taxes. I do not wish to use a "licensed property manager or realtor" to rent and or collect my taxes. I have always collected the taxes and paid them to the State of Hawaii myself. I have used a property manager in the past and it just doesn't make sense. It is bad when guests must call me because the property manger doesn't respond. (they always get the answering machine). They charge an exuberant amount of money for what they do. They don't actively advertise to get rents and I don't care for the way they maintain my condo. Since these condos are our 2nd homes and we have put a lot of time and money into them, I will not rent to people I personally do not screen. Many of my guests have said they won't rent through a property manger. The state is receiving more money by having me rent my places as I am able to keep them rented at 75% of the time. When using a property manager, they would possibly rent 3 weeks a year on 2 units and I never received a rental on another unit through them.

I have read through the testimonies the committees have received, and the people writing that they oppose the bill have far out numbered the people in support of it.

Can we not work together to come up with a better way for you to track the rents and taxes which are to be collected and paid? I would like to be part of a solution to this, but I do not feel this bill is fair nor do I believe you will gain more in tax payments.

Please consider my testimony.

Regards,
Sylvia Remington
Waikoloa Hawaii
La Conner WA

Gayle Larson
2295 Hamilton Street
North Bend, Oregon 97459
gaylelarson@me.com

March 29, 2012

Subject: HB 2078

We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws. However, we request you oppose the passage of HB2078 Bill and vote no to allow for further discussion and analysis.

If the Legislature is inclined to pass this Bill, we request that the resident owners also be required to comply as there does not seem to be an inherent justification for only burdening nonresident owners with all of the requirements in the Bill. As the Attorney General suggested, "under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents. We would therefore request that all that provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill SB2078 is based on the premise that nonresident owners do not comply with tax requirements. In the absence of new studies as the Attorney General suggests, it is reasonable to rely upon the last studies performed by the Hawaii Tourism Authority. In 2007 the Tax Department in Testimony stated:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."
2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."
3. "The Department does not believe there is substantial non-compliance with tax obligations." Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island.

As a nonresident owner, seek to comply with the laws. We offer the following suggestions to gain compliance.

Educate by a Notice. Language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.

1. Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice.
2. Every property owner receives a property tax bill. The Notice should be enclosed in mailing of the tax bills. The result would be EVERY OWNER WOULD RECEIVE NOTICE OF REQUIRED GE AND TA TAX COMPLIANCE AND STATE TAX RETURN. There would not be one property owner in the State of Hawaii who did not receive the information that they must comply if they rent transient accommodations.

In conjunction with a higher level of educational outreach, the State of Hawaii may receive a substantial amount of back due taxes by offering an amnesty program to all noncompliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

If the proposed bill stands and is approved, it is clear there are legal grounds that this legislation could be challenged on many different levels. It is my hope that since this transient accommodation tax and consumer protection is slipping in and out and over to this bill and that bill that the legislature would pause and ask if this is being done the right way. Thank you for your consideration.

Sincerely,
Gayle Larson

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Richard Beck
Organization: Individual
E-mail: rick.beck55@yahoo.com
Submitted on: 3/29/2012

Comments:

Aloha. I oppose this bill for several reasons. Mostly having a middleman will take responsibility away from the owner. My experience with a Realtor representing our condo was bad, in six months he booked only one guest and the single one he did caused problems with our resident neighbors. As an owner I

screen each guest by telephone to establish a personal connection and ensure they are the type of guests that will not disrupt residents and fits the guest's needs.

This bill is nothing short of a power grab by Realtors to increase profits...nearly every owner in our complex that has their unit represented by the two major Realtors on West Maui complains about their service and lack of responsibility. Are these really the people we want collecting taxes and representing the aloha spirit to tourists?

Yes we all need to collect the TAT/GET and I'm sure the vast majority do that. Why punish those of us who are honest? Would it not be more productive to cross reference internet ads and property tax records with TAT/GET records? Fact is, requiring people to use a middleman will not stop the dishonest renters and there appears to be no government enforcement. I support prosecuting the non-payers...as they are undercutting my prices by at least 13.5% and worse keeping the taxes badly needed to support island infrastructure.

Another possibility is the negative effect this may have on property values and the property tax collected. As an example, if I lose 25-40% of my sales to a middleman, I may as well long term rent, that means zero TAT, and a lower Maui property tax rate. If many folks do that, prices will rise on other rentals and less tourists will visit Hawaii, which is already very expensive for the 99%. Further, if this causes values to drop, it will be time to sell further driving prices down, creating more foreclosures and stress on island residents in resort and non-resort neighborhoods. Lastly I believe this proposed law is unconstitutional as it singles out a particular group. Do we require nail salons, hairdressers, restaurants (large cash businesses) to be represented by a middleman? What about WalMart and K-Mart? My guess this law will lead to costly litigation and yet another waste of taxpayer money that is needed for schools, roads, health and safety, etc.

What I do support: Yes each owner should have an on-island contact for emergencies and display the rental address in advertising. I also have no problem providing my HI tax id...so long as the government does not release any personal information.

Mahalo for your consideration and please do not pass this poorly disguised power grab by the real estate industry. By-the-way, I am a licensed real estate agent in Calif

Please, please do not pass this bill. It will destroy our \$125,000 investment we made recently in our condo on Maui. We pay all of our taxes on time.

Law is unconstitutional as it targets non-residents instead of residents

Exemption needs to be spelled out and explained fully in any proposed legislation

Tourism is coming back, this could have devastating effect on it

Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell – flooding the market

Property managers are the only ones to benefit from this law, everyone else loses!

Respectfully,
Dan Barrett
Valley Isle Condo Owner

Again I request that all legislators in the State of Hawaii change language in the above captioned bill.

First of all, what makes a non-resident of the state more likely to not pay the required taxes within the state of Hawaii? If you want the bill then you should treat ALL vacation rental owners the same.

Secondly, why is necessary to have a realtor or property manager be the on island contact? The most important aspects on a vacation rental is first paying the appropriate fees and taxes required by the state of Hawaii and secondly being responsive to a guests needs in case of an emergency. A resident of the state can be off island on vacation, business or at a second home elsewhere just as a non-resident may be unavailable.

What the state needs is proof from "ALL" vacation rental owners that the appropriate taxes and fees are paid and "ALL" vacation rental owners have immediate access to someone in case of an emergency at the vacation rental.

Clean up language in this important bill. Are you aware of the number of vacation rentals that are listed for vacationers?

Thank you for your careful consideration.

Linda Owen
My Waii, LLC
Maui (owner of vacation rental from over 50 years)

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Phillip Jones
Organization: Individual
E-mail: philmmjones@gmail.com
Submitted on: 3/29/2012

Comments:

I am an out-of-state owner and I have paid my taxes for 9 years amounting to \$28,347. Having "licensed professionals" to rent my property is not only not needed but would be an impediment to greater tax collection. Owners are more capable in renting their properties than professional property managers.

It is wrong to think, that by employing real estate agents, that they will collect money from tax cheats. The cheats will continue to cheat. The real estate

agents will get rich and the owners will suffer. It is the State's job to collect it, not shove it off onto owners who pay taxes.

Sincerely,

Phillip Jones

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: NANCY SPENCER
Organization: Individual
E-mail: nancyspencer107@gmail.com
Submitted on: 3/29/2012

Comments:

My husband and I 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 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Bosworth
Organization: Individual
E-mail: DavidLB13310@aol.com
Submitted on: 3/29/2012

Comments:

We oppose HB2078. 1. It does not solve any real problem. 2. Real Estate Agents/Property Managers may not pay taxes. Owner is still responsible for taxes, and this takes it out of our hands! 3. Prop. Mgrs. are an unnecessary expense. 4. I am as close as the telephone, and can give better service to my guests since I have a vested interest in their comfort. 5. This law is likely to adversely impact travel to HI because it is easier for guests to check rates & facilities on line through a well known owners website like VRBO.com. 6. There is only one winner--Property Managers. All the rest of the tourist industry will be losers, including State of HI. Reduced tourist volume will adversely impact everyone in the tourist industry. 7. I get more rentals doing it myself because renters would rather work with the owner. Owner's personal touch fosters

returning guests. 8. Unfare, as law does not apply to all owners equally (on-island owners exempt.)

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sue Miller
Organization: Individual
E-mail: JJM11870@aol.com
Submitted on: 3/29/2012

Comments:

I OPPOSE HB2078 SD1. This bill is being pushed through by a few who stand to gain by its passage without regard for its legality, its need, its impact on Hawaii tourism, small businesses, jobs, and the Hawaii economy, its potential impact on real estate values and subsequent loss of property taxes, and the inability for anyone to comply with what information appears on EVERY advertisement on the Internet.

Vote NO on this bill to allow time to verify the need, study other options, and determine the best approach with the least negative impact. Take some time to get it right!!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Our Maui Ocean View
Organization: Individual
E-mail: OurMauiOceanView@aol.com
Submitted on: 3/29/2012

Comments:

We oppose HB2078. 1. It does not solve any real problem. 2. Real Estate Agents/Property Managers may not pay taxes. Owner is still responsible for taxes, and this takes it out of our hands! 3. Prop. Mgrs. are an unnecessary expense. 4. I am as close as the telephone, and can give better service to my guests since I have a vested interest in their comfort. 5. This law is likely to adversely impact travel to HI because it is easier for guests to check rates & facilities on line through a well known owners website like VRBO.com. 6. There is only one winner--Property Managers. All the rest of the tourist industry will be losers, including State of HI. Reduced tourist volume will adversely impact everyone in the tourist industry. 7. I get more rentals doing it myself because renters would rather work with the owner. Owner's personal touch fosters returning guests. 8. Unfare, as law does not apply to all owners equally (on-island owners exempt.)

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: G. Mackey
Organization: Individual
E-mail: gayle.kona101@gmail.com
Submitted on: 3/29/2012

Comments:

This Bill is DISCRIMINATION Against Vacation Rental Owners 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. I DON'T THIS IS LEGAL TO PUT A BILL OF THIS TYPE INTO EFFECT.

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.

G. Mackey

To whom it may concern:

I strongly oppose the above bill you have come up with. Where is our freedom to do as we wish, with what we own? Why would anyone want a property managers/real estate agents to rent out their own condos, when they are perfectly capable of handling their own affairs. You should stay out of it. I disagree with this and is the most ridiculous thing I have ever heard of. I own a farm and that would be like you all coming in and telling us what to grow, etc.

Totally against this bill!!

Jeannie Schmidt

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carol Busby

Organization: Individual

E-mail: carolannbusby@gmail.com

Submitted on: 3/29/2012

Comments:

Parts of this law are very unclear. I have an on island representative and everyone else I know who rents directly does also. We are afraid a few greedy real estate professionals will force themselves into this mix which would be very bad for tourists, owners and the State of Hawaii.

I have been informed of pending legislation that would require a prospective customer to go through a realtor to rent a vacation rental on Maui. As a family we make it a policy to rent vacation condos from the individual owner. Why? On more than one occasion in the past we have had a bad rental experience from a realtor. The realtor was simply not familiar with the property, location and nearby amenities. The owner on the other hand relies on your business and wants to provide the best vacation experience for the customer. We rent condos or houses in, South Carolina, Naples, Destin Florida, and Maui. In Mid May we will be in South Carolina and have rented a vacation condo from the owner. I cant stress how important this is to us.

We simply don't understand why this has to be a legislated process requiring realtor companies to rent. Given the current economic conditions if your looking to run off your repeat visitors than enact this legislation. Understand this Bill HB 2078,HD2 SD1 will add unnecessary additional expense to the whole process of renting a vacation condo or home. What benefit to the end customer will come from this bill? Some of the best relationships/friends in the places we vacation have been with the owners. With these relationships we want to come back and feel as we are part of the community. We would love to keep Maui as a regular vacation spot, but if this legislation is enacted than we would most likely look for an alternative location to vacation. Harbor Island, Bahamas is our first choice to replace Maui.

Sincerely,
Doug Riddle
Captain, Simmons Flight Department
3 Rudston Lane
Bella Vista Arkansas 72714

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:

Dean Committee Members,
I agree with the intent of this bill but feel it still does fairly represent non-resident property owners

- 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 on rental agent should be changed to designated local 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 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 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.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/29/2012

Comments:

OPPOSE

Although we agree with the intent of Bill HB2078 HD2,SD1 and support Hawaii tax collection we feel that it opens us owners up to identity theft by allowing anyone to obtain our personal information with the tax ID number. We do not believe our tax ID number should be public information with all the fraud being done in this world.

Also forcing non resident owners to have condo managers renting out their own homes adds unaffordable costs and puts the big greedy property management companies back into a position to take advantage of property owners. The will force another whole round of foreclosures just when things were starting to settle out and eliminate a whole group of tourists who are now enjoying Hawaii and spending money here when in the past could NOT afford the pricy hotel rooms. There should be other ways to accomplish the same end results maybe even enforcing the laws presently on the books.

We also would like the term changed to "designated local contact" so the bill is not later changed to licensed real estate profession.

We do list our "on island" contact information in our rooms and send this information out to our guest prior to them coming here so we feel that is sufficient and will ONLY confuse our guest with bookings.

Thanks you

Don and Christina Healy

These are horrible bills that will force many, like myself, to sell their property. This would flood the market and devalue Hawaiian properties. 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.

In my own personal experience, I found owners to be far more informative and responsive.

Additionally, non owners do not take the same care in screening renters etc.

I don't believe these proposed bills are constitutional. It is like confiscation of property.
Sandra Bilson, Property Owner

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jake White

Organization: Individual

E-mail: jake_white4@yahoo.com

Submitted on: 3/29/2012

Comments:

It has been my experience that renting directly from the owners versus a large management company is a huge difference. We receive more of a personalized service vs the "just another person" approach from the management companies.

Please shut this bill down.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jake White

Organization: Individual

E-mail: jake.white4@yahoo.com

Submitted on: 3/29/2012

Comments:

It has been my experience that renting directly from the owners versus a large management company is a huge difference. We receive more of a personalized service vs the "just another person" approach from the management companies.

Please shut this bill down.

Mickey Roberts
130 Kai Malina Pkwy
Lahaina, HI

March 29, 2012

Honorable members of the Commerce and Consumer Protection Committee

HB 2078 as originally proposed would have required owners of out-of-state and off-island vacation rentals to register with the Department of Taxation, post that registration number and the contact information of a local agent on all advertisements.

As amended by the Tourism Committee of the State Senate, the bill resurrects the language of the prior deferred bill SB 2089. SB 2089 and the modified version of HB 2078 require:

- The use of a real estate broker, condo hotel manager or sales person to manage the property, the rentals, and taxes
- Provide the name of the real estate agent to the condominium association
- The condominium associations to report any owner who operates a

vacation rental to
the Department of Taxation (DOT)

- The counties must provide the DOT with a list of all properties that operate as a vacation rental
- The property owner must register with the DOT
- An owner may be exempt from the requirement to hire a real estate agent if a Tax Clearance is obtained from the DOT and submitted to the Real Estate Commission
- The name and contact information of a local point of contact must be provided on any contract or rental agreement

In prior testimony relating to SB 2089 the Hawaii Department Attorney General stated that the bill would invite Constitutional challenges under the Commerce Clause, the Equal Protection Clause and/or the Privileges and Immunities clause since it applies only to non-resident and off-island property owners. The current bill goes even further and applies only to condominium owners. The Real Estate Commission testified that the bill creates an unnecessary and new specialization of property managers within the real estate license statute, changes the legislative policy allowing owners of real estate to handle the management and sale of their own property without a real estate license HRRS 467-2(1) and creates ambiguity with current regulations governing condominium operators under HRS 467-30.

The requirement that the property manager is responsible for filing and remitting taxes is contrary to the current requirements of the tax code and under HRS 237D-8-5 the property manager is required a copy of the 1099, SSN and GE/TAT tax numbers to the DOT. These current requirements should enable the DOT to follow up with the owner regarding the payment of taxes. Any requirement should apply equally to residents as well as non-resident owners. They support the rights of property owners to do with their property as they wish, as long as their actions are legal.

The bill requires that Real Estate Commission to expend unavailable resources to implement the provisions. The will adversely impact the Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division and the Hawaii Real Estate Branch's already limited resources. The Department questions whether legislation is necessary and the Department does not believe there is a substantial non-compliance with tax obligations.

In conclusion:

- This bill penalizes nonresident property owners by imposing added costs for the rental of property as compared to other residents.
- There is no justification for such discriminatory treatment in this bill.
- Resident owners of rental property have the same ability to wrongfully withhold payment of taxes as do non-resident owners.

- Forcing non-residents to use real estate licensees for short term rental represents a retroactive impairment of their ownership.
- The requirement that the property manager is responsible for filing and remitting taxes is contrary to the current requirements of the tax code.
- The bill will adversely impact the Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division and the Hawaii Real Estate Branch's already limited resources and the Department questions whether legislation is necessary.
- The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses.

Non-resident owner's rights have been totally disregarded in order to solve a taxation issue that should be addressed as just that and not expressed as a management issue of non-resident owners.

Regards,
Mickey Roberts
Owner- Honua Kai #637
Lahaina, HI 96761

Re: HB 2078 HB2 SD1

Opposition

I respectfully request that you consider the following while making your decisions regarding HB2078 HB2 SD1.

This is from your Department of Taxation:

**DEPARTMENT OF TAXATION'S REPORT TO THE LEGISLATURE
REGARDING THE DEPARTMENT'S GOALS AND OBJECTIVES AS
REQUIRED BY ACT 100, SESSION LAWS OF HAWAII 1999 dated
January 24, 2011**

GOAL 1: To promote and foster the highest level of voluntary compliance, i.e., where taxpayers are voluntarily paying the proper taxes on a timely basis.

Objective 1: Voluntary Compliance

Promote and foster the highest level of voluntary compliance by **educating and assisting taxpayers in achieving the highest level of voluntary compliance. Develop a timely, efficient, and effective compliance program for non-filers, delinquent taxpayers, and other high risk taxpayers to strive for the highest quality and quantity of Department's delinquent tax collections.**

Strategy 1:

Educate and assist the public and all taxpayers in understanding and meeting their Hawaii tax obligations and to verify this process through audits, special enforcement, and criminal investigations.

Action Plan 1:

Educate the public, tax practitioners, and specific industries so that they can understand and meet their Hawaii tax obligations through workshops, articles, and other media. Further provide high quality customer service and technical assistance to **help the public, tax practitioners, and specific industries understand and meet their Hawaii tax obligations.**

Develop and continuously strive to improve dynamic compliance programs that include timely, efficient, and effective audits, collections through our Returns Classifying Officer, office examinations, field audits, special enforcement section, criminal tax investigations, and tax litigation. Leverage and prudently utilize limited resources by partnering with the IRS and other states and local city and state agencies and to maximize benefits and avoid duplication.

The Department of Taxation for the State of Hawaii has a formal plan for "...voluntary compliance by educating and assisting taxpayers in achieving the highest level of voluntary compliance." Their strategy is to "educate and assist the public and all taxpayers in understanding and meeting their Hawaii tax obligations to verify this process through audits, special enforcement, and criminal investigations."

The State through the Tax Department intends to educate taxpayers. This would include all nonresident owners since we are **taxpayers**. The Action Plan outlines steps to "educate the public, tax practitioners, and specific industries so that they can understand and meet their Hawaii tax obligations through workshops, articles, and other media."

The tax department has "compliance programs that include ... audits, collections through our Returns Classifying Officer, Office examinations, field audits, special enforcement section, criminal tax investigations, and tax litigation." This is a tax department that does not lack methods, tools or authority to achieve tax compliance.

Nonresident transient accommodation providers should be subject to these same compliance programs as all other taxpayers in the State of Hawaii.

Further this is Goal 4 from the same Department of Taxation's Report to the Legislature Regarding the Department's Goals and Objectives as Required by Act 100, Session Laws of Hawaii 1999 - dated January 24, 2011.

GOAL 4: To promote a tax system that assures the public that the tax laws are administered and enforced fairly, efficiently, and with integrity for all taxpayers

Objective 4.1: Fairness

Treat similarly-situated taxpayers fairly and equally. Diligently pursue taxpayers who fail to pay their fair share of taxes with appropriate consideration for the issue, amount, and circumstances.

Strategy 4.1:

Develop a vigilant compliance program that focuses on high risk taxpayers, nonfilers, leverages and prudently utilizes limited resources, and partners with the IRS and other states to maximize benefits and avoid duplication.

Action Plan 4.1:

Monitor and continuously seek to improve a dynamic real-time compliance program that ensures, as best as possible, that all taxpayers are paying their fair share of taxes.

Objective 4.2: Transparency and Stakeholder Input

Promote and foster transparency and encourage input from stakeholders such as the public, tax practitioners, and interested taxpayers.

Strategy 4.2:

Be proactive with stakeholders by reaching out and seeking their input through meetings, luncheons, and like functions.

Action Plan 4.2:

Circulate and publish Tax Department administrative initiatives including rules and tax

information releases and invite input from stakeholders.

Objective 4.3: Rules and Tax Information Releases

Adopt administrative rules, and publish tax information releases to implement the tax law and inform the public so taxpayers can voluntarily comply and be assured that the same rules apply to all taxpayers.

Strategy 4.3:

To provide taxpayers with information regarding the operation of the tax law through administrative rules and tax information releases.

Action Plan 4.3:

The Action Plan to accomplish this objective includes:

- Ongoing development and publication of administrative rules;
- Ongoing development and publication of tax information releases.

Objective 4.4: Technical/Legal Assistance

Provide taxpayers with timely expert assistance on tax law changes, development of forms and schedules, and interpreting the State of Hawaii tax code and related issues both internally and externally.

Strategy 4.4:

Provide education and assistance to the public and taxpayers, and the Department's staff including timely technical and legal advice on changes in the law.

Action Plan 4.4:

- The Department will analyze legislative proposals and identify emerging issues.
- The Department will convene parties to define issues and identify areas where guidance is needed.

Goal 4 requires the State to "treat similarly-situated taxpayers fairly and equally." Similarly-situated taxpayers fairly and equally would need to apply then to "all those who provide transient accommodations." The requirement is the type of tax being paid, not where one resides.

It also states the Tax Department will "diligently pursue taxpayers who fail to pay their fair share of taxes with appropriate consideration for the issue; amount and circumstances."

If one fails to pay "their fair share of taxes" the Tax Department has a remedy for resolving nonpayment by "diligently pursuing taxpayers." This diligently pursuing must be conducted in identical methodology. Not different methodology based upon residency.

The Tax Department will "develop a vigilant compliance program that focuses on high risk taxpayers, nonfilers ..." The Tax Department is developing a compliance program for

nonfilers. If the Tax Department is developing a program for nonfilers why would the only subcategory of nonfilers (nonresident owners) be subject to a different compliance program?

Objective 4.2 is to "Promote and foster transparency and encourage input from stakeholders such as the public, tax practitioners, and interested taxpayers."

As this Bill and the similar Bills have passed through Committee review, the Legislature has received well over 1,000 pages of testimony from nonresident owners. I believe this would qualify us as "interested taxpayers."

Under Strategy 4.2 the Tax Department states they will "Be proactive with stakeholders by reaching out and seeking their input ..." Nonresident owners would like to be included in the process of reaching out and giving input since we are interested taxpayers.

I ask you to examine whether or not you are varying from the State's intended goal and methodology of tax compliance. A single category of taxpayer, i.e. nonresident transient accommodation providers, are being made subject to an entirely different methodology of tax compliance as proposed in HB 2078 HD2 SD1 as well as in all of the companion Bills of similar intent.

The State of Hawaii's tax laws are for all taxpayers including nonresident transient accommodation providers. I do not believe any court would interpret one set of tax laws applying to resident (citizens) and another set of tax laws for nonresident (non-citizens) as being in the Tax Department's words --- fair and equal treatment.

In the judiciary branch of government, there is the concept of the scales-of-justice being blind. Meaning the intent is to apply all laws equally to every person subject to them regardless of distinction. These same scales-of-justice should be applied when authoring the laws in the Legislative Branch. **The laws should be written inclusively to all who are taxpayers. To do otherwise, may not withstand legal scrutiny.**

Property managers are not an extension of the tax department and to subject one category of taxpayer to a law that states "shall employ a real estate broker or salesperson ..." is not tax enforcement for the State of Hawaii. It is an act to enforce hiring and employment of a salesperson.

I ask you to consider other alternatives.

It is abundantly apparent to me in researching existing laws of taxation in Hawaii, that there is not a lack of laws. **There is a lack of education on the part of nonresident property owners.** Your tax department has stated it is their goal to educate to achieve tax compliance. Your tax department has also stated they will treat taxpayers "equally" please allow them to carry this out. Your tax department has stated they have audit tools, please allow them to perform the roll of tax compliance.

Respectfully submitted,

R. Stewart

March 10, 2012

Tourism Committee

My husband and I Bundy and Denise Green recently purchased our dream property in Kailua-Kona. We completely remodeled the property and have successfully rented it via VRBO for the two years. This property is part of our retirement income as well as being able to visit our favorite island once a year since our honeymoon in 1998. Before we started renting the property I obtained a business license and have been paying taxes quarterly as instructed by the Hawaii Tax Code for property owners. Before we decided to use VRBO we pulled the prior 3 years of p & l statements from the property management company. It was absolutely shameful how much money the company was taking from the property owners. No wonder they sold their property. It would be a total shame to see this company completely take over all the owners units. **This bill if passed is obviously for property managers not property owners.** We don't mind paying taxes but are opposed to having to use a property manager or real estate person because of the added cost. How can you target non-residents and not residents into the equation? Is this constitutional? Do you really want a new reason to chase away tourism that is starting to pick up by raising the costs of their stay on top of your already very high 13.42% tax? How devastating do you want to see tourism get? Also for the people that can't afford to keep their properties and will be forced to sell therefor flooding the market with more property thus bringing the prices down once again. Is this where we are going?

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand. Something is wrong here.

Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Develop brochures/material that all vacation rental owners have that clearly points out what is expected in terms of compliance.

Possibly support including tax numbers on all ads (if government ensures no identify theft threat) or another means to check to make sure people are paying taxes easily

This can be done by enforcing Hawaii's current laws.

Thank you for your consideration
Bundy and Denise Green
PO Box 4244 Brookings, OR 97415
Non-resident owners
Kailua-Kona

Aloha

I oppose HB2078 HD2 SD1

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.

Should you choose to pass this bill requiring a middle man. You will dismiss a very important part of the tourism industry (booking by owner though the Internet) and in turn, revenue will be lost for both the owners and the State of Hawaii. The only people that would make any money on this bill would be realtors and property managers.

Mahalo Nui Loa for your help.

Kathy Ochsenbein

Read about my strong opposition to SB2078 March 20, 2012

A plan that could lower Hawaii GE/TAT tax revenue? The net effect of unnecessary legal

constrictions would be the same as raising our already onerous taxes as viewed by travelers.

As a sole owner of three vacation rental condos on Maui, I'm very concerned that the bill

may be changed to reflect that an on island contact be a licensed Realtor or vacation rental

management company. Following is my rationale:

During the past 23 years, four different realty/vacation rental management companies had

represented my three condos on Maui. These entities were expensive, inept, undependable,

and provided so little taxable income that I was forced to take on the marketing and

managing of my condos personally in order to survive financially. For the past 12 years, I have

retained a private on island professional 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

contact information is already provided to every guest upon booking.

As my years of personal experience have demonstrated, having a licensed professional would

be counter productive. Plus remove a source of income for these loyal, responsible people

who would be forced by a new law to be terminated. Also my concern would be where

the cost of this extra layer of fees and commissions could be applied. Certainly rates cannot

sustain extra cost in this environment for many reasons. Only one of which would be fewer

bookings, resulting in less tax income. The net effect would be the same as raising our

already onerous taxes as viewed by travelers.

In addition, I believe that publishing the phone number of an on island contact would only

serve to confuse the prospective renter and suggest that the advertised property could be

booked by calling that number. It would be better to supply the number of a designated

local contact, by posting it in the room as well as including it in their rental documents.

I'm also concerned that publishing my GET/TAT numbers may be used fraudulently by others

in their advertisements.

Thank you for considering my opinions.

Cordially, Jim Egan

2085 Ala Wai Blvd. #10-4

Honolulu, HI 96815

Opposing HB2078 HD2, SD1 Amended

Dear Sir or Madaam,

I am opposed to HB2078 HD2 and hope you will be as well. The following are a brief list of key point why I am in opposition:

I am in full support of paying tax but am opposed to inserting property managers or realtors into the equation, this will greatly increase the cost of being able to vacation in Hawaii and will result in lost revenue for the area.

I believe the law to be unconstitutional as it targets non-residents instead of residents. I should not be penalized for wanting to vacation in Hawaii any more than anyone from Hawaii should be penalized for visiting and staying in my state.

At this point in our economy, tourism is coming back, this could have devastating effect on it. I would personally not be able to afford as long (and possibly not at all) a vacation in the area if this bill were passed. My wife and I are also considering purchasing property on Kauai and this would remove Hawaii as a whole from our list of places to buy and rent. I believe many current owners would have to sell as well, as they would not be able to afford their units.

Finally, Property managers are the only ones to benefit from this law, everyone else loses!

Sincerely,

Jeff and Karen Warren

To Whom It May Concern:

We are writing to OPPOSE House Bill HB2078. We have owned our property in Maui for 10 years and have managed it just fine by ourselves. We pay our taxes, both TAT and GET, on time, have records to prove same and feel that by passing this bill you would be taking our rights to ownership out of our hands. Between property taxes, TAT, and GET we have paid over \$100,000.00 in the ten years.

Where are we going to be guaranteed that a property management company is going to take the same care that we have afforded our guests? Where will it be written that they will take a vested interest in the needs of our guests? Where will it be written that what we consider our second home will be treated with respect? I spend hours both on the phone and on line getting a feel for the kind of guests we allow in our home. Guaranteed, we can't be 100% positive that who we rent to will take care of our place but in the 10 years we have only had to cancel one rental because what was suppose to be originally 4 guests became 7. We said NO. Only on two other occasions have we decided NOT rent to back to certain guests in the future. I am positive that this will not happen with a property management company. They will rent to whomever they want with no regard to property. Whose to say that we will be notified when a rental is in our unit. Know for a fact that this has happened to friends. By mistake they found out that their unit was rented by a "Property Management Company" to over 10 people and because of the noise factor were notified by the on site manager. What a surprise! If they had not found out, the PMC would have pocketed the money.

We had 7 returning guests last year alone and three have signed on again this year. Why - we take pride in our unit, spend ample time there ourselves so that we can assure our guests that what we advertise is what they will get.

PLEASE, PLEASE take into consideration that not all properties are JUST RENTALS. We have put sweat and tears into making this a place we both enjoy coming to and sharing with travelers

Should this bill pass, consider the effects that it will have on Hawaii's economy and property values not to mention all the units that will fall to foreclosure because of the abundance of people who cannot afford to keep paying the HOA fees and the taxes until it is sold or dumped. It is not right to have to raise rental fees to offset the 25-40% fees that would be needed to cover the extra fee of a property management company. NOT FAIR, NOT FAIR one bit.

Debi and Rod Conklin

702 Anna Place
El Dorado Hills, CA 95762

Legislation is full of unintended consequences. By trying to solve the problem of a few home owners not paying their taxes, you will be losing a great deal more money for the State of Hawaii. VRBO and similar websites are here to stay. No wishful thinking on the part of realtors or hotels will return us to past influences on tourism. Tourists routinely now stay in private homes and condos instead of hotels. Even in world travel this is common practice. A generation of computer savvy people want to make their decisions directly from their research, not from a realtor who directs them to certain places. Imagine this huge number of people going to VRBO and finding Hawaii not on it. Do you think they will then think, "Oh, I'll just call a real estate agent" or do you think they'll look at other islands that are available on VRBO.

I have worked with Whaler's Realty as an agent and with The Whaler management. Both of them were substandard in handling my property. Both agencies worked on filling up a property evenly—no matter how nicely you had prepared your property for rentals. The Whaler would not even honor a request for a renter who wanted to return to the same place a second time. I've never understood completely why, but when we were working with agencies we had a lot of renters who damaged our property. They were not quality renters, maybe because agencies do not build a professional relationship with the renter or possibly because the type of person who uses VRBO is more discerning than the one who picks up the phone and makes a quick call to a realtor. Because of this damage to a property we had put a lot of time and money into, I decided to spend the many hours a week to manage our own property. We haven't had any damage since (we have Martin MacArthur furniture in our unit) and I am constantly getting thank you's from renters because they are so happy with our condo. We also have many repeats and referrals. I simply care more about our second home than a realtor or property manager does and the difference shows. This type of caring is an Aloha spirit that builds return visits to the Hawaiian Islands.

If your concern is truly for collecting state taxes, then a "property number" requirement for VRBO should solve that problem. I think it also makes sense to require an owner to have someone on the island who can take care of an immediate problem (we do). As this current bill stands you will be "throwing out the baby with the bathwater" and putting a big dent in your tourist industry.

There is one final point. I assume you have had a lawyer look over this bill, but it really raises a question of an attack on personal rights. Can the government really tell a homeowner that he must hire someone to manage his property? Where is the line drawn between what the government can tell you to do and what they can't? I believe this proposed bill crosses that line.

Thank you,

Carol Hunt

I support HB 2078 HD2 SD1. Over the last few years I have seen an alarming trend even amongst our owners to say, "Oh it is not a paid rental it is friend of mine." We then speak to the guest and they let us what they have paid for the rental. We then have to remind our owners that we are reporting their income and they need to report income honestly and accurately. So what is occurring when we are not the gatekeeper? I would say that much of the income goes directly out of state and is never reported. This results in millions of dollars of lost revenue to the state of Hawaii. By recent questionnaires I have seen some of the online booking companies are getting ready to start charging

a commission of what is booked through them directly. In this state commissions on rentals are to be paid to real estate professional or the travel agents not to online booking companies. The state in losing control of what is occurring in rentals within their state.

The other problem is the guest is left without protection. This is a global industry and other than fact that the guest is staying in the state of Hawaii their funds never make it here. They are without recourse when things go badly. Please support HB 2078 HD2 SD1 not just for the state of Hawaii, but for the consumer as well.

Pamela A. Higgins, RBS
SunQuest Vacations

Testimony on HB 2078

My wife & I (Gloria & Vincent Kuhnhausen, Mill Valley, CA) wish to express our **strong** opposition to the above mentioned proposed bill regarding Rental of Transient Accommodations.

We own two condos on the Island of Kauai (one for 26 years and the other for 12 years). We rent these units to visitors to the islands (when we are not there) and submit and pay the taxes due from these rentals.

We feel that these bills illegally discriminate against us non-Hawaiian owners. Further, the effect of these bills will be to add significant expense to our operational costs for no personal benefit. Also, it is likely that this will have a negative effect on real estate values. You are seriously wounding the Golden Goose!!

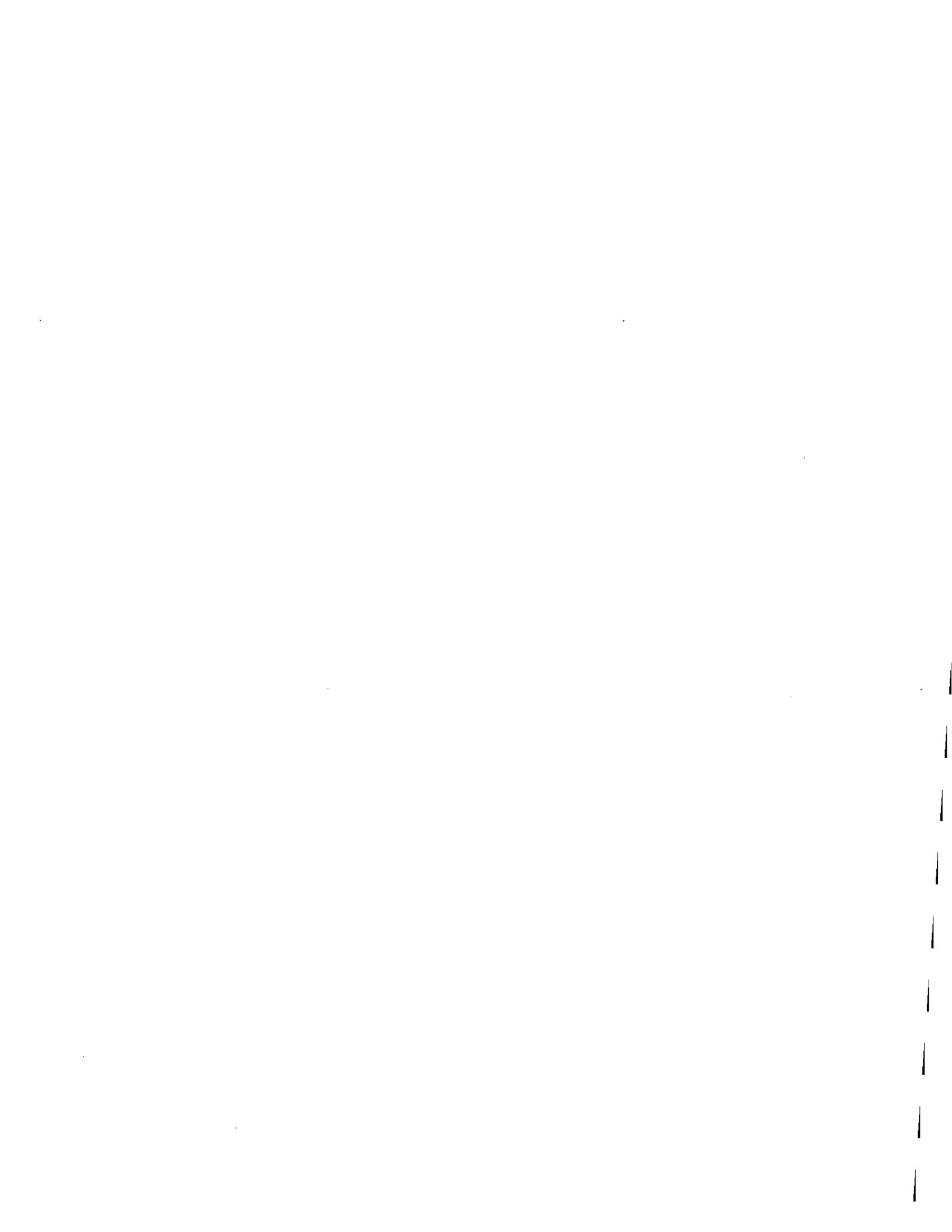
Since we operate on a slim margin with the rentals, this additional (and unnecessary) expense may cause us to discontinue renting and probably have to sell at least one of the units, keeping the other unit for personal and family use only.

It is a shame that legislators sometimes fail to adequately consider the effects of their bills on the little guy. In this case, these bills will likely have a serious effect on tourism since we small operators collectively bring in thousands of free-spending fun seekers to beautiful Hawaii each year. By self-managing and holding down overhead we are able to offer reasonable rents to willing vacationers.

In our experience, local Realtors (and, even, professional Resort Managers) are unable to procure adequate bookings from mainlanders. We've had at least three Rental Pool at Pono Kai Resort fail due to low rentals.

Our local manager (a Real Estate Broker) refuses to handle bookings and collect rents. He understands that he can not attract renters and is unwilling to take the time to deal with the public who contact us from our web-site and VRBO.COM (a wonderful source of business). Listing our local manager on the web sites would be confusing and create a time consuming bother to the agent. A really bad idea just so your "bean counters" can see who has a Tax ID and who doesn't.

VINGLO TAX SERVICE
Mill Valley, CA



To: Consumer Protection Committee

March 30, 2012

I am opposed to Bill 2078HB, HD2, SB1

David and Christine Miller
9705 S. 81st Ave.
Palos Hills, IL 60465

The arguments opposed to this bill are not materially different than those put forth to the similar SB2089 recently deferred. While there is little support for those owners and property managers who do not pay the TAT and GET taxes, ample arguments have been proposed to counteract these tax cheaters and to solve that problem.

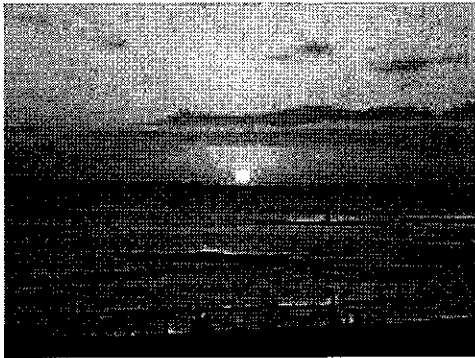
Realtors do not seem to be in universal agreement on their stance regarding this bill. Concerns have been voiced by some realtors about their capability of satisfactorily complying with the provision of this act should it pass.

For those of us who are honest and diligent in a complete and timely filing of these taxes it is difficult to understand why these measures are continually proposed and little is done to solve the problem. A thorough study of the many ideas previously submitted with regard to SB 2089 should be a very valuable first step for all of the legislators to address this problem.

Bill Rudolph
wbrudolp@iastate.edu
March 29, 2012

I strongly oppose this bill as it will infringe on my rights as a property owner and also discriminate against me as a non resident property owner. I pay my GET and TAT taxes and am licensed to run my rentals. I would not like to have a third party deciding who gets to stay in my home. I have turned down prospective renters as I did not feel they would look after my second home. This bill will only serve to enhance property management companies ability to control the rental market. Property managers do not care about my home as I do. I have on island representatives and professionals to deal with anything that needs to be fixed. Please consider the extreme consequences that this bill would have for every nonresident property owner that rents out their second homes.

Need a vacation? Rent our beautiful condo
<http://www.shoresofmauivacationrentals.com/>



I am writing in opposition to HB2078 HD2, SD1 Amended... I have stayed in private condos on the Big Island and on Maui and received great service from the property owners. In fact, my wife and I currently have reservations in a private condo on the Big Island for 15 days this May. The condos have been in great condition, and I have been charged tax.

Thus,

- I support paying tax, but I am greatly opposed to inserting property managers or realtors into the equation.
- I believe that the law is unconstitutional as it targets non-residents instead of residents.
- I feel that exemption needs to be spelled out and explained fully in any proposed legislation.
- Indications are that Hawaii tourism is coming back, and this bill could have a devastating effect on it. With today's ease of transportation and travel around the world, tourists can decide to go to other venues rather than coming to Hawaii.
- Real estate is also coming back, and this will make it so owners cannot afford to keep their properties and will have to sell. Such action will result in a flooded market and great loss of property values and tax dollars. So, even though the realtors think that managing property will benefit them, they will suffer loss in the long run as will others.

In essence, property managers are the only ones to benefit from this law, everyone else loses!

Dr. Bob Cavin
2199 Portofino Dr
Rockwall, Texas 75032

To: The Honorable Rosalyn H. Baker, Chair, and Members of the Senate Committee on Commerce and Consumer Protection

Date: Friday, March 30, 2012

Time: 9:30 a.m.

Place: Conference Room 229, State Capitol:

From: Bonnie B Pauli, Manager – Owner, South Maui Condos Owner Direct Rental Network <http://mauiownercondos.com>

Re: H.B. No. 1706, H.D. 1, Relating to Condominiums

We respectfully submit some suggestions for methods that could aid the State in enforcing current laws requiring payment of General Excise and Transient Accommodation taxes by owners of transient rental accommodations.

Since it is likely that an owner (on or off-island) who does not pay GE and TA taxes on their vacation rentals is also not claiming the rental income derived as such we would like to suggest some methods that might help the State easily identify these people and collect taxes lawfully owed to the State.

Some of this was submitted by one of our members, a Maui resident, earlier this week – Cara Birkholz – Thank you Cara.

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.

This information can actually be collected on a daily basis as the AOAO collects the actual names of those in the unit on any day for insurance purposes.

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 though the information is available on line on the State's website*).

3. All non-resident owners by law need to have an on-island representative for their condos. Many AOAOs already collect this information and could also report it.

4. Require Vacation Rental Directories who wish to offer rentals in the State of Hawaii to collect a tax id number as part of each listing's information. It would not be displayed on the listing but a list of the tax id numbers and the address of each unit (already collected by listing sites and in some cases not displayed) could be required to be supplied to Hawaii on a yearly basis.

5. cross-reference the AOAO reports with the tax department's records, and conduct audits and issue fines as necessary. This can be accomplished with a computer program and should not take much man power/time by the DoTax.

Dear Legislators,

Thank you for this opportunity to provide testimony for HB2078. I strongly oppose this measure.

It is discriminatory and legislators over the course of the past month have failed to provide any evidence supporting a justification for this discrimination or distinction between resident and non-resident owners.

From a tax remittance standpoint, it is true that residents and non-residents are essentially the same. From a tax enforcement standpoint, it is true that residents and non-residents are essentially the same.

As a non-resident I provide to Hawaii Department of Taxation the following which can be used for review and audit purposes in the same way they are able review and audit the records of a resident owner of a TVR :

- As a non-resident I am required and do have a General Excise Tax License.
- I am required as well to have a Transient Accommodations Tax Certificate of Registration.
- I am required and do pay my GE and TA taxes
- Non-residents are required to also submit N-15 which is an Income Tax Return for Nonresident or Part-Year Residents.

- It shows to Hawaii's Department of Taxation all of the Income fields I report to the IRS for my Federal Tax Return 1040 (and which I also report to my California Tax Return 540).
- In addition, N-15 requires, and I faithfully comply to attach the my full annual Federal Tax Return.
- The Federal 1040 includes my Schedule E form which reports all of my rental income.
- This Schedule E rental income can be compared side by side with my annual GE and TA reported rental income.

There appears to be no authenticity to a statement that review, audit or enforcement is largely more difficult for the DOT to perform for a resident vs. a non-resident owner of a TVR.

Regarding consumer protection there is no study citing a difference between consumer protection level of issues that have occurred for the resident vs. non-resident owners of TVRs. Under HRS 467 non-residents and residents alike are able to perform as their own Real Estate Brokers in selling, buying, renting and leasing their properties. My county laws require and I adhere to the requirement of having a local contact for emergency issues or as needed to support the rental and my guests. There has been no study presented that shows consumer protection issues and the level of problems for Property Managed units vs. self-managed units.

To impose a cost burden of 25-50% on a non-resident owner first with no known concerning level of incidents to remediate via the use of a Property Manager, and then to not apply the same standard to a resident owner constitutes a tax or tariff and represents an unconstitutional restraint of trade. It also is creating a monopolistic environment for Property Management firms over the non-resident owners, for which the state has made no provisions to regulate and ensure fair treatment of owners.

To require a property to be managed under a Licensed Property Manager rather than by owners directly, with no careful study of the facts pertaining to Consumer Protection issues and violations under Property Managers or under self-managed properties would be to dismiss or at least overlook the legislative duty to act in the best interests of the state as well as the consumers we are attempting to protect.

I hereby ask the legislature to defer or oppose HB2078 until a careful review of fact based studies has been performed.

Thank you for the opportunity to provide testimony.

I Oppose HB2078 on the grounds of no factual basis for the need to pass this measure and the discriminatory and unconstitutional application of this law exclusively to non-resident owners.

Frances S. Staben, trustee
Staben Family Trust, April 1, 1996
P309 - Maui Banyan, Kihei, HI
March 28, 2012

Re: HB 2078
To Whom It May Concern:

This proposed bill is extremely detrimental to the state of Hawaii and to all non-resident property owners. If this bill had been in effect when we purchased our property, we definitely would not have bought it. If this bill passes, we may have paid for the property but have to basically "give" it to the property managers. It may be ours to pay the taxes, and expenses, but we would have no rights to "own" or operate it. I believe there will be many more units for sale, foreclosures, and short sales if it goes into effect.

If the purpose is to maintain the property in a good manner, all the property managers or rental person need do is refuse to represent that property in its rental program unless it is maintained properly. The owner has the choice of following the **recommendations** or not be included in the program. This should be an arrangement between the rental agent and the property owner.

Please look at the long range results of this ill-conceived bill and **do not pass it.**

Sincerely,
Frances S Staben

Honorable Senator Baker and Committee Members,

We are residents of Hawaii and operate a vacation rental on a different island. We strongly oppose the passage of SB 2078 for many reasons. We do support

That everyone operating transient accommodations pays the appropriate taxes. We do not believe that this bill is the solution for collecting delinquent taxes.

*This bill is written with the premise that nonresident owners, whether they are off island or out of state, do not comply with the law. Apparently the State believes that only those owners of transient accommodations living on the same island pay their rightful taxes! Based on this finding, the State is removing the constitutional right of all off island and out of state owners to rent their own private properties. The State is not taking into account the severe financial repercussion to owners of such properties that will result. Paying Real Estate Agents and Property Managers the outrageous fees that they demand for such services would cause financial hardship and most of us would not be able to afford our mortgages, condominium fees, utilities, property taxes and other related expenses. And all because the State does not trust off-island and out of state property owners!

I would like to bring to your attention an example of such excessive charges from Abbey Vacation Rentals on Big Island. They charge 31% of the full rental receipts, plus other expenditures such as \$750 per year for advertising, \$500. per year for disbursing the applicable excise and transient accommodation taxes. The owner of Abbey Rentals is Don Monck, who has testified for the passage of this bill! Is there any question as to his motivation for the passage of this bill?

If in fact the State has evidence that there are significant delinquencies in the collection of transient accommodation taxes, the State through its own Department of Taxation should implement the means for enforcement and collection. Setting up Realtors as the State's Tax Collection Agency is not in the best interests of the citizens of this State.

*Besides Transient Accommodations, this bill also addresses consumer protection measures. This bill will actually be a detriment to consumers because the

State will be eliminating competition in the vacation rental business and be establishing a monopoly for the Real Estate companies! I would also like to add that Property Owners and not Real Estate Agents who have nothing vested, provide better service to consumers. We have a significant investment in our properties and therefore it is in our best interests to keep them properly maintained. It also assures repeat business and referrals in a competitive market. If owners are forced to rent their properties through a Real Estate company and pay exorbitant fees, this will force rates to increase dramatically. This is definitely not in the best interests of consumers and eventually it would lead to sending our tourists to other cheaper locations such as Mexico and Caribbean.

*This bill is also vague and flawed regarding the exemption for

nonresident owners. Does the State really believe that the Real Estate Commission should have the power to grant exemptions? If the exemption approval is given to the Department of Taxation, the basis for exemptions should be clearly spelled out. This should not be left to the whim or mood of a State employee!

As residents of the State of Hawaii, we are very concerned about the fiscal situation.

However this bill is not in the best interests of the citizens of Hawaii or the tourists that support our economy. We ask that you do the right thing, and reject this bill in its entirety. This is not pono for Hawaii!

Respectfully submitted,

Robert and Sophie Greeno

Waikoloa, HI

Dear Legislators,

Thank you for this opportunity to provide testimony for HB2078. I strongly oppose this measure.

It is discriminatory and legislators over the course of the past month have failed to provide any evidence supporting a justification for this discrimination or distinction between resident and non-resident owners.

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Thank you for the opportunity to provide testimony.

I Oppose HB2078 on the grounds of no factual basis for the need to pass this measure and the discriminatory and unconstitutional application of this law exclusively to non-resident owners.

Dear Legislators,

OPPOSE 2078

We submit the following as Testimony opposing HB2078.

Legislators, through various bills running through both houses since January of this year have proposed to 'fix a tax leak problem amounting to tens of millions of dollars'. The legislative fix is to require non-residents to have their operations monitored and controlled by Property Managers.

Since February Legislators have failed to provide documentation to support their claims that "studies show" a problem with tax collections or tax remittance for non-resident owners of transient vacation rentals.

Conversely, reports show that the opposite is true. Hawaii Tourism Authority study of 2007 is one such study, finding nonresidents "generally in compliance".

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.

Within this 60 page document presented to the Governor, is to be found 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. The ones who are to oversee non-resident owners properties to solve the tax remittance 'problem'.

In face of this information it is extremely hard to find any legislative defense of proposed changes to disallow non-residents to continue to operate under the provisions of HRS 467. At best, the agenda is quite unclear. And the cost to the population of primarily law abiding and tax compliant non resident owners, which will include a large number of forced sales of properties and in some cases personal bankruptcies is unconscionable.

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.

I am opposed to SB 2078 and all of the other bills that are dealing with the same subject, often with the same wording. It would seem obvious that someone or a group of people are so intent on passing this legislation that they have produced it in many different bills.

The property management groups are unhappy that they have lost business. In my case, an agency lost my business because of the inept job they were doing. In recent years, I have had to work hard to build a clientele, and I am not ready to turn that over to someone else who will not give my guests the same good experience that I provide. As a business person, I do not want to pay someone else for the work I am doing. As a matter of fact, I cannot afford to pay an agent.

I have on-island contact people, and my guests have those numbers. Of course, I provide them with my phone number also. One guest wrote in my guest book that the service I provided was just as if I were right next door. You can't get much closer than that! I don't believe it would be helpful to have my on-island contact's number in my advertisement. What customer needs to call them at that point? It would only be confusing and an invasion of their privacy.

This bill is unfair and discriminatory. Why is it that non-residents are the only ones required to follow these rules? Do all residents pay their taxes or is it that residents vote?

There have to be better ways to enforce the tax rules that you already have. Please stop this bill. If you are going to be protecting the consumer, I believe you may need to protect them from some of the agencies. There is a reason that visitors to Hawaii and other places around the world are choosing to deal with owners. The consumer can know which room, which view, and which size bed they are booking when they deal with the owner. The typical response from an agency is that they will note the guests' requests, but they cannot guarantee they will get them. When I had an agency, I had complaints that the agency would not return calls when the guests needed something. As an owner, I also do not want agencies telling me what kind of furniture I have to have, nor do I want to be forced to buy linens and other items from them. I don't want to be subject to their whims as to which condo get the renters.

Again, I plead with you not to force discriminatory legislation about how I can run my legal business.

Linda Mitchell

Lindafinearts@gmail.com

I am writing in opposition to HB2078.

First of all, this bill is discriminatory in that it applies differently to resident owners and non-resident owners of transient accommodations. If there is to be regulation of transient accommodations, it should apply to all owners equally. I can deal with issues with my property as fast as anyone on the island can with theirs. I have an on island contact, I have a phone book, I have people who have done work for me in the past, and I am frequently on-island myself.

I pay GET and TAT taxes on a monthly basis. I pay property taxes at the highest rate. Additional requirements that I have an on-island agent will make it difficult to break even with my investment as I have a mortgage and monthly operating costs. I have had an agent in the past. I was doing most of the work myself; advertising, talking with prospective clients, collecting rents, etc. I still had to pay commissions to the agent. In the final year I was with them, they procured three renters and I did the rest. We know of several owners who have had similar experiences with agents and in some cases worse ones.

If the issue is that people are avoiding paying taxes, then the State of Hawaii needs to address that issue and make sure that taxes are being paid. Every resort or condominium complex has a record of who checked into a particular piece of property. That trail should be relatively easy to follow.

Thank you for your time.

Douglas B. Mitchell

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

March 28, 2012

Regarding HB 2078

OPPOSED

From David Arthur,

I am very unclear how half way through the process of reading and amending bills, it is possible to fundamentally change the spirit and intent of a document. HB 2078 is now striking similar to SB 2089 that was deferred earlier this month. It has little resemblance to the original HB 2078, which only recommended posting the Tax ID number on websites for transient vacation rentals.

How is that even possible?

I am in the process of purchasing a property on Maui with the intent of renting it as a transient accommodation. I have obtained a Tax ID Number and plan to remit all GET and TAT for the rentals I book.

I do not want to be mired in all of this additional administration and associated cost. You are biasing the rules toward residents, who are no more or less likely to comply with the rules simply based on their residency. That is contrary to the 11th amendment to the constitution, which makes it unconstitutional to treat 2 groups differently. In this case, those groups are residents and non-residents.

I am strongly opposed to the bill, and encourage you to find another way to enforce compliance with taxation.

Thank you for voting against this bill.

Consumer Protection Committee

March 28, 2012

Honorable Senator Chairman, Vice Chairman and members:

Thank you for taking my comments into your consideration:

HB 2078 HD2 SD 1 actually places consumers and rental owners at the mercy of a state favored agent monopoly, eliminates consumer options, opens the door for abuses, reduces competition and freedom of choice for accommodations and services in Hawaii. Please oppose it because it does not effectively protect consumers and in fact, causes more harm than good.

The proposals in HB2078 are unjustified. **Consumer satisfaction reviews provide good evidence that protection from rental owners is not necessary.** If this proposal passes visitors satisfaction will be compromised. Quality, variety of units, and rate options will also be compromised. Much testimony and evidence reveals owner rental condos are by far better maintained than agent managed units. Consumers receive one-on-one attention to their needs with owners, adding to consumer's satisfaction and pleasure while in Hawaii.

Public online reviews by renters serve as a protective means and source of good information about specific rental units to other prospective island visitors. Numerous online customer reviews verify most rental tourists have positive experiences with excellent personalized attention to their needs. As a former renter in Hawaii through agents and then through an owner, I personally know there is a world of difference and as a consumer I preferred the owner managed units.

Consumers also have an added protection for their rental money from popular online sites. Vacation Rental by Owner and Home-Away sites offer renters payment and trip protection insurance, although its seldom needed.

In reviewing the proposed bill before your committee, **please note that HB2078 does not protect rental owners (who are also consumers) from questionable and unethical practices by agents or managers** who may fail in their duties or neglect to maintain the property in an efficient good manner, screen guests properly, fill vacancies, and keep expenses reasonable.

I now own a condo in Maui, and in renting it out have many satisfied return guests. I will not turn it over to an agent because my standards are higher than theirs and I don't want this wonderful property damaged, neglected or misused, nor its occupancy overloaded. Other laws protect property owner's right to manage their own units. Please do the same by rejecting HB2078. I also pay thousands of dollars in GET and TATaxes plus my higher property taxes and any income tax due Hawaii. No matter what, I'm responsible for those taxes and agents are not.

The tax evader issue is a separate matter that behooves Hawaii's DOT to pursue and collect any taxes owed by owners or agents who do not pay. Unpaid owed taxes are unfair to everyone.

In regard to consumer protection, **an eye opening DOT report on department activity involves "57 tax court issues that relate to transient rentals --and 55 of the cases are against management companies. The other two are against private owners"**. I believe you have received the link to this report via another person. Based on the DOT information any requirement

for off-island rental owners to turn over income and rentals to management agencies is like putting **the fox in the hen house**. Honest management companies surely exist, but the DOT report shows there are foxes among them. **The real solution to the tax avoidance issue is through the DOT**, not through unfair and unjust proposals like HB2078. Please vote against the unconstitutional discriminatory HB2078 HD2 SD1. Its harmful on many fronts.

Sincerely,

Sandra Boswell, 4400 Makena Road, Wailea Makena, Hawaii 96753

I OPPOSE SB 2078

This Bill unfairly discriminates against those owners of vacation rentals that do not live on the island on which the rental is located. There is an assumption made that these owners are not paying their GE and TA taxes. Do not penalize those that are paying their taxes and have a reliable person that manages their property. I think the realtors are looking mostly at complexes where there are multiple units with mainland owners; however, there are many owners of individual homes that are managed just fine without a realtor's approval.

What about long term rentals? It's not fair to discriminate against short term rentals.

The problem needs to be resolved by legally permitting short term rentals and then following up on unpaid taxes (if that is truly the purpose of the bill). However, it seems the purpose of the Bill is to generate more income for realtors. In the long run if this Bill passes, the State will be discouraging owners from renting their properties because of the extra expense and hassles involved.

OPPOSE THIS BILL!

Aloha,

Dianne

This is testimony opposing HB2078 HD2, SD1 Amended, for the Consumer Protection Committee Meeting, March 29th 9:30 am

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 on-site back up for me.

I regularly pay my GE and TA taxes and am making more money for the state of Hawaii than when the property manager was renting my condo. I believe that HB2078 HD2 SD1 Amended is illegal and unconstitutional and is not in the best interests of homeowners, visitors, or the state of Hawaii. If passed, I believe that this bill will result in the following:

1. cost the state of Hawaii millions of dollars in lost GE and TA taxes,
2. have a devastating effect on tourism which is just starting to come back,
3. negatively affect owners like myself who would not be able to afford to keep their properties, thus flooding the market with additional foreclosures.

I strongly support homeowners paying GE and TA taxes – but I am opposed to mandating that property managers or realtors must be inserted into the equation as middlemen. They would be the only ones to benefit from this law, while everyone else loses.

Instead, Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Vacation rental owners who do not comply should be heavily fined, 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 in Opposition to HB 2078 HD2 SD1

A little more than 3 years ago my husband and I invested substantially in a condo in Kihei, Maui. The condo was in very poor condition and in desperate need of renovation. We did just that and now have a beautiful condo which is occupied almost 90 percent of the year. In addition to our personal use and that of our family and friends, our guests come from both the mainland and Canada. We are able to offer our clients a beautiful place to stay at a reasonable rate.

The passage of HB 2078 HD2 SD1 will change everything. Even though our business is successful, we barely manage to cover our expenses and mortgage payments. By the time we pay our island agent, utility costs, AOA fees, real estate taxes, GE and TA taxes, and mortgage payment we have nothing left over. If we are forced to add an additional expense of 25-40 percent for a licensed real estate agent or condo hotel manager to manage our property, we will be forced to sell. And we are one of the owners in good shape right now. There are many who are just barely hanging on; and if saddled with these additional costs, I shudder to think how many condos will flood the Maui real estate market.

We have followed all the laws and rules pertaining to transient accommodations. We have a Business License, a Tax I.D. Number, and pay our GE and TA taxes each month. We also support the Maui economy in that we utilize a local Island Contact and cleaning service, replenish our condo routinely with products purchased from small businesses in the area, call local repairmen for needed repairs, and bring many tourists to Kihei to stay in our beautiful island home. We provide all guests with the name and phone number of our Island Contact in all correspondence and on signage posted in the condo.

We love our condo in Maui and care deeply about our guests' experiences. We only have one condo, and we pour our heart and soul as well as our hard earned money and personal labor into making it a place where those who stay will want to return to over and over again. No one will ever care about it like we do. A licensed real estate agent or condo hotel manager managing hundreds of properties cannot possibly give our single condo the time and support that we do.

HB 2078 HD2 SD1 infringes upon the constitutional and civil rights of property owners to manage one's own property and is discriminatory in that it is not uniformly applied to all business owners or TA owners.

Laws are already on the books to address these issues. Why not focus on enforcement of laws already in place?

I respectfully and strongly request that **HB 2078 HD2 SD1 NOT be passed.**

LuAnn Boone

March 28, 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 HB2078.** 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

March 28th, 2012

Dear Legislators,

Thank you for the opportunity.

I oppose HB2078.

If this bill is enacted I will have to sell my vacation rental. I cannot absorb a 25%-40% increase in cost and survive because this is how much the property managers charge the average owner. I will not be able to increase my rent to recuperate the cost because I have to compete with the "local owners" who are not being affected by this bill. This bill puts the off-island owners at a huge disadvantage.

I'm getting quite tired of having to submit testimonies opposing these bills time and time again when the legislators keep re-introducing them almost "word for word".

Please go back and read the past testimonies for SB2089, HB1707, HB1706. The arguments against this bill are as true now as they were a month ago.

Thank you.

Sincerely,

Li Youn

Maui Vacation Rental Condo Owner

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) 459-5784
TELECOPIER (310) 459-1606

March 25, 2012

Ms. Elen Stoops
41373 Norman Ct
Fremont, CA 94539-4546

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

Dear Elen,

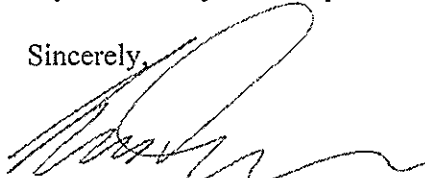
You have requested my opinion regarding the above legislation and its likely impact on real estate disclosure practices in Hawaii. Under Hawaii law, a seller of residential real property is required to fully and accurately disclose to a buyer, in writing, all "material facts" concerning the seller's 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

Dear Committee Members and Legislators,

Thank you for the opportunity to provide testimony on HB2078 HD2 SD1, the bills language is found on this site http://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2078 as a .pdf file titled HB2078 SD1.

I oppose this measure.

I respectfully request that following is carefully considered by legislators in their duty to meet their responsibilities per their Oath of Office.

Non-resident owners support the following principles that are embedded in HB2078 HD2 SD1

- 1) Pay all GE and TAT taxes owed.
- 2) Provide contact information for local manager.
- 3) Support the Tax Department by reducing obstacles to enforce compliance in a manner that is reasonable and does not impose undue harm on owners.
- 4) Maintain in proximity of the property a local agent who may act on the owners behalf for issues requiring local attention to either the renter or the property.

However the content of the bill is objectionable and not acceptable. Therefore Non-resident owners OPPOSE HB2078 HD2 SD1 on the following grounds:

1. Violation of US Constitutional Law and NAFTA Treaty.

a) A general principle of US law is that state laws may not be in conflict Federal laws which supercede them, or with U.S. Supreme Court rulings on interstate commerce relative to the Interstate Commerce Clause.

Therefore any laws conflicting with US Constitutional or similar Federal laws with precedent are therefore conflicting with Hawaii State Legislators' Oath of Office which reads:

"Hawaii Constitution Section 4. All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as to best of my ability."

Passing a bill that will be met with legal challenge shall require Hawaii taxpayers to fund a legal defense. This bill if enacted into law in its present form, will be challenged. This does not serve the interests of Hawaii's voting citizens and taxpayers.

b) This bill discriminates between non-resident and residents of the state without required compelling need to do so. HB2078 HD2 SD1 as well as HB1707, SB2089, HB1706 each serve to artificially create subgroups, each with different levels of law, and different levels of indirect taxation, where no compelling state need has been provided, which is required to legally support this type of discrimination. A resident owner of a transient vacation rental has no lesser need to adhere to Hawaii laws governing enforcement of tax collections.

A number of legal precedents on the subject of restraint of trade or violation of interstate commerce exist, including:

Baldwin v G. A. F. Seelig (1935) where Justice Cardozo wrote that when "a state tries to isolate itself economically" it must show an important interest for doing so and that it had no less discriminatory mean open for accomplishing its goal. Cardozo's test has become the standard test for evaluating state laws that discriminate against out-of-state commerce.

c) This bill is in likely violation of Fifth Amendment and Fourteenth Amendment protections as it attempts to coercively require non-residents to agree to be divested of the originally purchased use of their property without "just compensation" for the "fair market value" that has been adversely affected by the requirement to perform to the full measure of this law.

Without a prior review of the legal agreements that owners formerly were able to enter at will, it is not legal for the legislation to force compliance until a review of the Rental Agreements has first been performed by the Legislature. The resulting mandate will be to force owners to enter into agreements with a market that has monopolistic or oligopolistic characteristics, with no "just compensation" for doing so. I have listed as a footnote below, terms that exist in the current Rental Agreement of the Property Manager of record in my complex that are objectionable and are not lawful for me to enter without free will to do so. (Note 1)

d) Violation of US Constitution Article 4, Section 2 that holds:

the Supreme Court, which has held that the clause means that a state may not discriminate against citizens of other states in favor of its own citizens. In *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823), the federal circuit court held that privileges and immunities in respect of which discrimination is barred include

protection by the Government; the enjoyment of life and liberty ... the right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefits of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the State; to take, hold and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State.

2. Less discriminatory means exist to accomplish the goal of this bill whose stated purpose is for tax remittance and consumer protection.

To meet the standard set by *Baldwin v. GAF Seelig*, where Justice Cardozo wrote that when "a state tries to isolate itself economically" it must show an important interest for doing so and that it had no less discriminatory means open for accomplishing its goal. Cardozo's test has become the standard test for evaluating state laws that discriminate against out-of-state commerce, the following is the change required if HB2078 HD2 SD1 moves forward: **Delete the word nonresident in all instances.** Any legal provision or related language should apply ONLY to **all owners** of Transient Vacation Rentals regardless of residency status.

3. No compelling need has been established by the state to discriminate between Non-Resident and Resident in the matter of assistance to the Department of Taxation with respect to either enforcement or auditing.

As a non-resident I am required and do have a General Excise Tax License. I am required as well to have a Transient Accommodations Tax Certificate of Registration. Non-residents are required to also submit N-15 which is an Income Tax Return for Nonresident or Part-Year Residents. It shows to Hawaii's Department of Taxation all of the Income fields I report to the IRS for my Federal Tax Return 1040 (and which I also report to my California Tax Return 540). In addition, it requires us to attach the full annual Federal Tax Return. The Hawaii state DOT therefore has EVERYTHING that I report to the IRS, truthfully or otherwise, and includes the Schedule E form that your state has in their possession to cross reference against my reported rental income when I file my periodic GE and TA taxes. I believe therefore, this is

the rough equivalent to the documentation that residents give to Hawaii DOT and therefore negates the authenticity of any argument legislators or DOT has to compel non-residents to be treated differently than residents for the purposes of tax enforcement.

4. It violates my choice to enter into a Rental Agreement by free will. Under free will guaranteed by the constitution, I am required to enter into a unilaterally written agreement with no recourse except that mandated by the agreement itself.

5. It violates my rights as a Property Owner. I no longer have choice over the use of the property for which it was originally purposed for and was legal at the time of purchase. A requirement that I turn over in entirety it's management and use to a Property Manager, I have now been denied access to my property as originally afforded.

A regulation restricting the use of property to further legitimate public ends, will not be considered a taking merely because it impairs the value or the utility of that land. However, when the regulation goes too far (as Justice Holmes put it in *Pennsylvania Coal Co. v. Mahon*), so as to deprive the property owner of all reasonable use or value of the property, it will be judicially recognized as the equivalent of a taking which may not take place without payment of just compensation to the property's owner.

The Fifth Amendment to the United States contains important protections against federal confiscation of private property. It states: No person{shall be} deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Just Compensation Clause is incorporated in the Due Process Clause of the 14th Amendment which does apply to states. The problem of sovereign immunity of the United States was solved when Congress enacted the Tucker Act which consents to lawsuits against the federal government in the U.S. Court of Federal Claims which sits in Washington, DC, but hears taking cases from all over the country. .

6. The law will have an adverse and significant impact to the market value of my investment-grade property for which the state has not provided just compensation. (note 2)

There are numerous other concerns I have with the language of this bill and related bills HB1707, HB1706 and SB2089. However at this point I think it is clear that inadequate review has been performed by the legislative committees thus far. This bill in its present form is highly challengeable from a legal perspective and additionally does not serve the best interests of the citizens of your state. I strongly urge the Committee to either OPPOSE this measure or determine to DEFER HB2071 HB2 SD1.

Thank you for the opportunity to provide testimony.

Notes:

1. Below are objectionable clauses in current Rental Agreement language that I do not wish to be coerced or forced to enter into or otherwise prosecuted under penalty of law.

Rental Agent shall contract and supervise the cleaning at the owner's expense. (There is no provision for the owner to specify how the unit shall be maintained. This decision authority rests with the Rental Manager. Part of the reason I left my rental pool was because my unit was filthy in my standards under their cleaning team and articles belonging to my unit would disappear. The Rental Agreement provides no remedy to the Owner.)

Rental Agent shall use 'best efforts' to rent the apartment to 'desireable tenants' at such rents as shall be determined from time to time by Rental Agent in cooperation with owner. (I do not wish to relinquish control to the sole discretion of the Rental Agent as to who may use my unit. Today I screen my guests and make an agreement with each one as to how my 2nd home shall be used or not used.)

Rental Agent shall have the right to accept or not accept a Unit into the rental program

Rental Agent has right to accept (or not accept) the inventory contained in the Unit. In other words the Rental Agent can dictate to the owner what must be part of their Inventory. (This is unacceptable to me, for a variety of reasons including past problems with the BOD and Rental Management who set different standards for different members of their Rental Pool. This did not affect me directly but is entirely unacceptable and I do not wish to be put into this situation.)

Agent, in consultation with BOD, shall have the right to require owner to comply with Agents written notice to Owner of recommendations concerning the condition of the Unit, including but not limited to: furniture, fixtures, appliances, televisions, A/C, draperies, wall and floor coverings, lighting, linen, kitchen utensils and related items. If owner shall fail to comply within 30 days of written notice of recommendations, Agent reserves the right to withhold the Unit from the rental program until compliance with such recommendations have been met. (I am able to rent my unit very effectively today without oversight by another party. I do not wish to give another party the right to tell me how I shall furnish my unit. That is a marketing decision that is to be left to the owner of the property and the rental)

Agent shall make non-emergency repairs without need of prior consultation with owner for repairs costing \$300 or less. (This is unacceptable and this "privilege" of the rental agent has been abused in the past to my detriment)

In event of emergency, owner understands and agrees that Agent is expressly authorized to make emergency repairs as Agent determines necessary without prior approval of the Owner and with no cost limitation thereon, the cost of which repairs and maintenance may be either deducted by Agent from the Owner's distribution or billed directly to the Owner. Agent will first attempt to make every possible effort to contact owner, but failing that may proceed as stated above. (Same as for non-emergency repairs this is unacceptable and this "privilege" of the rental agent has been abused in the past to my detriment. I have had a licensed contractor of emergency service company, called in by the Resident Manager that proactively in a concerned manner brought to my attention the abuse of my unit's treatment and the treatment towards me in a past flooding problem caused by another unit and resulting in damage of mine)

Regarding Owner Occupancy, owner should give notice at least 4 weeks in advance and Owner can be withdrawn from the Rental Program for failure to do so. (This is not acceptable, I should be able to arrive and use my unit at any time that it is unrented without advance notice in excess of what is needed to not break a prior rental contact with a guest.)

Power of Attorney. Owner by execution of this agreement does hereby make Agent his true and lawful attorney in fact for him to issue and sign reservations, to contract with tenants and evict any tenant. (Not acceptable. If my Rental Manager is renting my unit to smokers, drug dealers, larger parties than I would like in my unit, or people who are more likely to cause undesired wear on my unit or damage to my property with no direct recourse in the matter, my immediate override on this matter is the only acceptable situation.)

Arbitration. Except as otherwise contained, any and all issues, disputes, disagreements, questions or matters arising under this Agreement upon which the parties do not agree, shall be settled by arbitration in accordance with the rules of American Arbitration Association..... Shall be conducted in the State of Hawaii (not accepted).

2. See letter attached provided by Lawrence Damm, dated March 25, 2012. His review of pending legislation and comments citing likely measurable and perhaps significant adverse impact on value of your property, as well as all similar Hawaii real property permitted or zoned for vacation rentals.

RE: **opposition to HB1706 HD1 and HB2078 HD2 SD1**

Dear Representatives:

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 to collect additional taxes, 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 on arcane business models and attempt to resuscitate these outdated business models" combined with "increase tax revenue generation where new business model has decreased tax revenues". Otherwise, if this were merely to find tax cheats, why would these bills be trying to put those of us who do pay taxes out of business?

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 arcane business models and mask the incompetence of the state tax collector!

Stoops Testimony
HB2078 HD2 SD1
March 28, 2012
5 pages total

Dear Committee Members and Legislators,

Thank you for the opportunity to provide testimony on HB2078 HD2 SD1, the bills language is found on this site http://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2078 as a .pdf file titled HB2078 SD1.

I oppose this measure.

I respectfully request that following is carefully considered by legislators in their duty to meet their responsibilities per their Oath of Office.

Non-resident owners support the following principles that are embedded in HB2078 HD2 SD1

- 1) Pay all GE and TAT taxes owed.
- 2) Provide contact information for local manager.
- 3) Support the Tax Department by reducing obstacles to enforce compliance in a manner that is reasonable and does not impose undue harm on owners.
- 4) Maintain in proximity of the property a local contact who may act on the owner's behalf for issues requiring local attention to either the renter or the property.

However the content of the bill is objectionable and not acceptable. Therefore Non-resident owners OPPOSE HB2078 HD2 SD1 on the following grounds:

1. Violation of US Constitutional Law and NAFTA Treaty.

a) A general principle of US law is that state laws may not be in conflict Federal laws which supercede them, or with U.S. Supreme Court rulings on interstate commerce relative to the Interstate Commerce Clause.

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b) This bill discriminates between non-resident and residents of the state without required compelling need to do so. HB2078 HD2 SD1 as well as HB1707, SB2089, HB1706 each serve to artificially create subgroups, each with different levels of law, and different levels of indirect taxation, where no compelling state need has been provided, which is required to legally support this type of discrimination. A resident owner of a transient vacation rental has no lesser need to adhere to Hawaii laws governing enforcement of tax collections.

A number of legal precedents on the subject of restraint of trade or violation of interstate commerce exist, including:

Baldwin v G. A. F. Seefig (1935) where Justice Cardozo wrote that when "a state tries to isolate itself economically" it must show an important interest for doing so and that it had no less discriminatory mean open for accomplishing its goal. Cardozo's test has become the standard test for evaluating state laws that discriminate against out-of-state commerce.

P. 1 of 5

Stoops Testimony
 HB2078 HD2 SD1
 March 28, 2012
 5 pages total

c) This bill is in likely violation of Fifth Amendment and Fourteenth Amendment protections as it attempts to coercively require non-residents to agree to be divested of the originally purchased use or intention of their property without "just compensation" for the "fair market value" which shall be adversely affected by the requirement to perform to the full measure of this law.

Without a prior review of the legal agreements that owners formerly were able to enter at will, it is not legal for the legislation to force compliance until a review of the Rental Agreements has first been performed by the Legislature. The resulting mandate will be to force owners to enter into agreements with a market that has monopolistic or oligopolistic characteristics, without "just compensation" for doing so. I have listed as a footnote below, terms that exist in the current Rental Agreement of the Property Manager of record in my complex that are objectionable and therefore are not lawful for Hawaii to require me to enter without free will to do so. (Note 1)

d) Violation of US Constitution Article 4, Section 2 that holds:

the Supreme Court, which has held that the clause means that a state may not discriminate against citizens of other states in favor of its own citizens. In *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823), the federal circuit court held that privileges and immunities in respect of which discrimination is barred include

protection by the Government; the enjoyment of life and liberty ... the right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefits of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the State; to take, hold and dispose of property, either real or personal; and an exemption from higher taxes or impositions than are paid by the other citizens of the State.

2. Less discriminatory means exist to accomplish the goal of this bill whose stated purpose is for tax remittance and consumer protection.

To meet the standard set by *Baldwin v. GAF Seelig*, where Justice Cardozo wrote that when "a state tries to isolate itself economically" it must show an important interest for doing so and that it had no less discriminatory means open for accomplishing its goal. Cardozo's test has become the standard test for evaluating state laws that discriminate against out-of-state commerce.

Hence the following is the change required if HB2078 HD2 SD1 moves forward: **Delete the word nonresident in all instances.** Any legal provision or related language should apply **ONLY** to all owners of Transient Vacation Rentals regardless of residency status.

3. No compelling need has been established by the state to discriminate between Non-Resident and Resident in the matter of assistance to the Department of Taxation with respect to either enforcement or auditing.

As a non-resident I am required and do have a General Excise Tax License. I am required as well to have a Transient Accommodations Tax Certificate of Registration. Non-residents are required to also submit N-15 which is an Income Tax Return for Nonresident or Part-Year Residents. It shows to Hawaii's Department of Taxation all of the Income fields I report to the IRS for my Federal Tax Return 1040 (and which I also report to my California Tax Return 540). In addition, it requires us to attach the full annual Federal Tax Return. The Hawaii state DOT therefore has EVERYTHING that I report to the IRS, truthfully or otherwise, and includes the Schedule E form that your state has in their possession to cross reference against my reported rental income when I file my periodic GE and TA taxes. I believe therefore, this is the rough equivalent to the documentation that residents give to Hawaii DOT and therefore negates the authenticity of any argument legislators or DOT has to compel non-residents to be treated differently than residents for the purposes of tax enforcement.

Stoops Testimony
 HB2078 HD2 SD1
 March 28, 2012
 5 pages total

4. It violates my choice to enter into a Rental Agreement by free will. Under free will guaranteed by the constitution, I am required to enter into a unilaterally written agreement with no recourse except that mandated by the agreement itself.

5. It violates my rights as a Property Owner. I no longer have choice over the use of the property for which it was originally purposed for and was legal at the time of purchase. A requirement that I turn over in entirety it's management and use to a Property Manager, I have now been denied access to my property as originally afforded.

A regulation restricting the use of property to further legitimate public ends, will not be considered a taking merely because it impairs the value or the utility of that land. However, when the regulation goes too far (as Justice Holmes put it in Pennsylvania Coal Co. v. Manon), so as to deprive the property owner of all reasonable use or value of the property, it will be judicially recognized as the equivalent of a taking which may not take place without payment of just compensation to the property's owner.

The Fifth Amendment to the United States contains important protections against federal confiscation of private property. It states: No person(shall be) deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation.

The Just Compensation Clause is incorporated in the Due Process Clause of the 14th Amendment which does apply to states. The problem of sovereign immunity of the United States was solved when Congress enacted the Tucker Act which consents to lawsuits against the federal government in the U.S. Court of Federal Claims which sits in Washington, DC, but hears taking cases from all over the country.

6. The law will have an adverse and significant impact to the market value of my investment-grade property for which the state has not provided just compensation. (note 2)

There are numerous other concerns I have with the language of this bill and related bills HB1707, HB1706 and SB2089. However at this point I think it is clear that inadequate review has been performed by the legislative committees and this bill should not move forward. This bill in its present form is highly challengeable from a legal perspective and additionally does not serve the best interests of the citizens of your state. I strongly urge the Committee to either OPPOSE this measure or determine to DEFER HB2071 HB2 SD1.

Thank you for the opportunity to provide testimony.

Notes:

1. Below are objectionable clauses in current Rental Agreement language that I do not wish to be coerced or forced to enter into or otherwise prosecuted under penalty of law.

Rental Agent shall contract and supervise the cleaning at the owner's expense. (There is no provision for the owner to specify how the unit shall be maintained. This decision authority rests with the Rental Manager. Part of the reason I left my rental pool was because my unit was filthy in my standards under their cleaning team and articles belonging to my unit would disappear. The Rental Agreement provides no remedy to the Owner.)

Rental Agent shall use 'best efforts' to rent the apartment to 'desireable tenants' at such rents as shall be determined from time to time by Rental Agent in cooperation with owner. (I do not wish to relinquish control to the sole discretion of the Rental Agent as to who may use my unit. Today I screen my guests and make an agreement with each one as to how my 2nd home shall be used or not used.)

Rental Agent shall have the right to accept or not accept a Unit into the rental program

Rental Agent has right to accept (or not accept) the inventory contained in the Unit. In other words the Rental Agent can dictate to the owner what must be part of their inventory. (This is unacceptable to me, for a variety of reasons including past problems with the BOD and Rental Management who set different standards for different members of their Rental Pool. This did not affect me directly but is entirely unacceptable and I do not wish to be put into this

P. 3 of 5

Stoops Testimony
HB2078 HD2 SD1
March 28, 2012
5 pages total

situation.)

Agent, in consultation with BOD, shall have the right to require owner to comply with Agents written notice to Owner of recommendations concerning the condition of the Unit, including but not limited to: furniture, fixtures, appliances, televisions, A/C, draperies, wall and floor coverings, lighting, linen, kitchen utensils and related items. If owner shall fail to comply within 30 days of written notice of recommendations, Agent reserves the right to withhold the Unit from the rental program until compliance with such recommendations have been met. (I am able to rent my unit very effectively today without oversight by another party. I do not wish to give another party the right to tell me how I shall furnish my unit. That is a marketing decision that is to be left to the owner of the property and the rental)

Agent shall make non-emergency repairs without need of prior consultation with owner for repairs costing \$300 or less. (This is unacceptable and this "privilege" of the rental agent has been abused in the past to my detriment)

In event of emergency, owner understands and agrees that Agent is expressly authorized to mach emergency repairs as Agent determines necessary without prior approval of the Owner and with no cost limitation thereon, the cost of which repairs and maintenance may be either deducted by Agent from the Owner's distribution or billed directly to the Owner. Agent will first attempt to make every possible effort to contact owner, but failing that may procede as stated above. (Same as for non-emergency repairs this is unacceptable and this "priviledge" of the rental agent has been abused in the past to my detriment. I have had a licensed contractor of emergency service company, called in by the Resident Manager that proactively in a concerned manner brought to my attention the abuse of my unit's treatment and the treatment towards me in a past flooding problem caused by another unit and resulting in damage of mine)

Regarding Owner Occupancy, owner should give notice at least 4 weeks in advance and Owner can be withdrawn from the Rental Program for failure to do so. (This is not acceptable, I should be able to arrive and use my unit at any time that it is unrented without advance notice in excess of what is needed to not break a prior rental contact with a guest.)

Power of Attorney. Owner by execution of this agreement does hereby make Agent his true and lawful attorney in fact for him to issue and sign reservations, to contract with tenants and evict any tenant. (Not acceptable. If my Rental Manager is renting my unit to smokers, drug dealers, larger parties than I would like in my unit, or people who are more likely to cause undesired wear on my unit or damage to my property with no direct recourse in the matter, my immediate override on this matter is the only acceptable situation.)

Arbitration. Except as otherwise contained, any and all issues, disputes, disagreements, questions or matters arising under this Agreement upon which the parties do not agree, shall be settled by arbitration in accordance with the rules of American Arbitration Association..... Shall be conducted in the State of Hawaii (not accepted).

2. See letter attached provided by Lawrence Damm, dated March 25, 2012. His review of pending legislation and comments citing likely measurable and perhaps significant adverse impact on value of your property, as well as all similar Hawaiï real property permitted or zoned for vacation rentals.

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

TELEPHONE (310) 459-5784
TELECOPIER (310) 459-1606

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

March 25, 2012

Ms. Elen Stoops

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

Dear Elen,

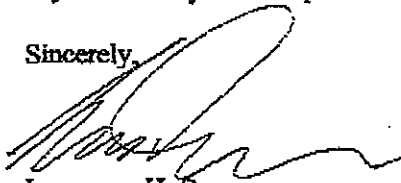
You have requested my opinion regarding the above legislation and its likely impact on real estate disclosure practices in Hawaii. Under Hawaii law, a seller of residential real property is required to fully and accurately disclose to a buyer, in writing, all "material facts" concerning the seller's 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

p. 5 of 5

Cara Birkholz
29 S Kukui Place, Kihei HI, 96753

March 25, 2012

TO the Senate Committee on Commerce and Consumer Protection

Senator Rosalyn Baker (Chair) fax 808-586-6071, Senator Brian Taniguchi (Vice Chair) fax 808-586-6461,
Senator Brickwood Galuteira fax 808-586-6829, Senator Josh Green MD fax 808-586-9391,
Senator Clarence Nishihara fax 808-586-6879, Senator Malama Solomon fax 808-586-7339,
Senator Sam Slom fax 808-586-8426

RE: Suggestion for Amendment for HB2078 HD2 SD1

Dear Senators,

I am a full-time Maui resident and I oppose the current version of HB2078 HD2 SD1. The intent of this and 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, as a resident of our beautiful Hawai'i, fully support.

However, I believe the economic impacts of this bill will hurt the State much more than it will help with the tax collection. You have already heard many arguments from the opposing side, so I won't go there.

I think a better way to collect 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 owners 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, GE and 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.

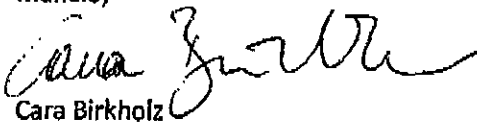
4. By law all non-resident owners already need to have an on-island representative for their condos. I am not sure if it currently is reported to the AOA, but don't see this as being a problem. Should the State need this information, it is something the AOAs could collect and report also.

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 the Caribbean, for instance). Also it does not penalize those non-resident owners who are obeying our laws and filing taxes.

Vacation rental agencies prefer the other approach as it eliminates much of their competition and is expected to bring them large profits. However, the negative impact on property values and tourism dollars will be huge for the State of Hawai'i, definitely not in the best interest of all Hawaiians.

Thank you for carefully considering our future.

Mahalo,



Cara Birkholz

29 S Kukui Pl
Kihei HI 96753
808-281-7934
carabirk@gmail.com

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 I purchased it. Bill HB 2078 HD2 SD1 would impose the services of a real estate agent on me to manage my property against my will. I fundamentally oppose this amended bill 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 of property in the State of Hawaii.

I am also concerned that the provision imposing the requirement to use a real estate agent to manage my property has been injected in this bill because it was found unacceptable in SB2089 and proponents of this provision are attempting to have it imposed on property owners by including it in HB 2078.

I assume that in the rush to amend HB 2078 no consideration has been given to the implications of the amended legislation under 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.

I have made my concerns with HB 2078 with its current amendments made known to United States Ambassador to Canada with my concerns about the discriminatory nature of HB 2078.

Proponents of the new amendment to this bill continue to 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 study to support such claims and without empirical evidence such testimony should be considered as hearsay.

I believe that with the current amendments HB 2078 is legislation which is designed to benefit the very narrow interest of realtors acting as Property Managers at the expense of non resident business owners.

This bill does not deal with the perceived problem of non compliance with tax legislation by both resident and non-resident owners of transient accommodation in the State of Hawaii and should be given no further consideration.

Thank You
James Long
Timberline Land Co. HI, LLC

MARSHA VAUGHN, LSCW

2513 San Mateo Street

Richmond, CA 94804

marshavaughn@comcast.net

(510) 206-4619 cell

Hawaii Committee of Commerce and Consumer Protection

March 27, 2012

Re: HB 2078 HD2 SD1

Dear Senators,

Once again I write to you to respectfully request that you defer this bill. I am in opposition to it as it stands, although not in opposition to the purported intent.

1. This bill as written, requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Why? I am doing a really good job running a business with high integrity. What advantage would this have for me or my tenants? True, it would be of great advantage to the real estate broker but I bought my condo from a broker so that I could manage it myself. Are all realtors who are currently in the process of selling vacation rentals informing the potential buyers of this added expense? I believe they must fully disclose this. I can, if you are interested, solicit letters of praise for my management of my condo from all of my previous tenants. I have received NO complaints in the almost two years I have been managing it. I pride myself on the service I deliver to them and the positive ways in which I promote tourism in Maui. I truly don't understand what my consumers need to be protected from in relation to renting from me or any of the other owners I happen to know, for that matter.
2. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Does this mean that the real estate agent who is managing my condo is supposed to give personal information about me to the DOT? Such as what? And how would a third party know what is true about me? I pay my taxes. Surely, the DOT can find that out on their own. I understand there is a tax enforcement issue. Are real estate agents to then become the tax enforcers? It is also my understanding anecdotally that there are numerous residents on the islands who rent their homes and condos under the table, if you will, and are not running legitimate businesses. Most likely they are also NOT advertising on the HomeAway and VRBO websites as that would make their underground businesses too visible and likely to be caught. I believe that any Property Manager at any HOA can provide a list of which units in the complex are vacation rentals and which are not. I know mine could easily. My guests are required to register their vehicles in order to park in the parking lot so it is VERY evident who is renting their

units out. Using these lists the DOT could easily check the names and addresses against their issued TAT Registrations and find those who are renting but not registered or paying taxes.

3. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. This is fine. I'm happy to provide the county with whatever information they need to provide to the DOT. Tell me what is needed.
4. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines for noncompliance. I believe we already have a DOT registration number. I have a Transient Accommodations Tax Registration Number and it is on all of my tax returns as well as on my VRBO advertising (although I have been told this is a possible way to have my identity stolen given the lack of security of personal information on the DOT website).
5. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. What are the circumstances? If it is that I am tax compliant, I am happy to read this. However, given the 2010 audit of the Hawaii DOT and its antiquated information technology and computer systems, I have absolutely no confidence that the DOT will be able to issue these exemptions in anything like a timely manner. What happens if they don't? Is there a fine for the DOT not meeting this requirement? Or a timeline within which they must meet it? How will this protect our customers if my exemption doesn't come in time and I have already booked a tenant?
6. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. I have done this for every tenant and believe it is best practice. That said, I have never had a tenant need to call a local point of contact, including during the recent tsunami, when I was in contact with them myself several times.

So other than providing real estate agents with additional income, I can't really see the point of this legislation. I understand the real estate market in Hawaii has been hurt over the past few years but I don't believe this is the fix you for it.

As far as allegations that there are millions of dollars of uncollected TAT, I do suggest that if you updated your collection and enforcement system within the DOT you would not need to outsource this to real estate agents, who, quite frankly, have just as much of a likelihood of pocketing the tax money as individuals do. In fact, the Department of

Taxation creates a yearly report on their activities. Included in it are Tax cases in court. 57 of them relate to transient accommodations taxes. 55 of the cases are with realty management companies and 2 of the cases are with individuals. And this is who you want to protect consumers? Just stop and think about it a minute, please!

Thank you for your time and service. I sincerely hope you will make the right decision regarding this bill and the multitude of others that seem to all have the same intent and import.

Mahalo,

Marsha Vaughn

March 27, 2012

Re: **No on HB2078 HD2, SD1**

Dear CPN Committee members, please **VOTE NO ON HB2078!**

HB2078 will place unfair financial burden on property owners.

First of all, I pay my taxes as I'm sure most owners do! I keep reading that the amount of un-paid taxes is uncertain or unknown. I don't understand how you can make a law based on "guesses or estimates". It makes sense to me as a first step, to ask your finance department to complete an analysis and to review the tax code to determine an approach to enforce current tax laws. With HB2078, you are punishing the majority in order to reach the few!

I have paid thousands of dollars in Transient Accommodations and General Excise taxes over the past nine years of owning my vacation home. I rent out my vacation home as a short-term rental to off-set the costs of owning a vacation home and I work really hard to keep my property booked *myself*.

I do employ a property management company; however, if this law passes, I would have to pay additional compensation to the management company (commission on all of my own bookings in addition to any bookings the management company secures). Local realtors and property management companies stand to gain, while owners stand to lose. Currently, I pay a fee on my own bookings and a commission on the bookings that my property management secures. Historically, I secure more bookings than my management company, AND I pay thousands of dollars to insure my guests have a contact in case of emergencies or for repairs.

HB 2078 law could force me and other owners to give up our properties.

Please do not penalize us owners who pay our taxes and contribute to the financial health of Hawaii--*You will be hurting Hawaii tourism*. HB2078 would unfairly re-allocate wealth from those who put up the capital and made the investment, to those who passively make income.

Please look for another option to enforce current laws and Vote NO on HB2078!

Mahalo,

Kimberly Bankston-Lee
Maui Vista Unit 2115
Kihei, HI 96753

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.

My condo is considered a unit in a Condotel, which was extremely difficult to get a reasonable rate mortgage for. I pay my GET/TAT taxes in full and on time. I manage my unit and have hired local island personnel to look after the guests needs when they are in my condo. In 2011, although I had a reasonable rental experience, I experienced a loss of income, due to the cost of operating in the state of Hawaii. If I was required to hire another agent who will receive 20 – 50% of the gross income from my rentals, I would not be able to continue my business. I could not meet my monthly expenses. I would be forced to sell or foreclose. All condos that are considered Condotel suffer in the real estate market due to the difficulty in getting financing for a mortgage.

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

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Page Trygstad
Organization: Individual
E-mail: page@princessradhafarm.com
Submitted on: 3/27/2012

Comments:

OPPOSE, this is just a designation of income to real estate agents and essentially an extra tax on property owners. Shame on you legislators and realtors.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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

Comments:

Cara Birkholz
29 S Kukui Place, Kihei HI, 96753

March 25, 2012

TO the Senate Committee on Commerce and Consumer Protection

Senator Rosalyn Baker (Chair) fax 808-586-6071, Senator Brian Taniguchi (Vice Chair) fax 808-586-6461, Senator Brickwood Galuteira fax 808-586-6829, Senator Josh Green MD fax 808-586-9391, Senator Clarence Nishihara fax 808-586-6879, Senator Malama Solomon fax 808-586-7339, Senator Sam Slom fax 808-586-8426

RE: Suggestion for Amendment for HB2078 HD2 SD1

Dear Senators,

I am a full-time Maui resident and I oppose the current version of HB2078 HD2 SD1. The intent of this and 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, as a resident of our beautiful Hawai'i, fully support.

However, I believe the economic impacts of this bill will hurt the State much more than it will help with the tax collection. You have already heard many arguments from the opposing side, so I won't go there.

I think a better way to collect 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 AOA once a year for every condo I own, and owners 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, GE and TA license numbers for the vacation rental properties and report them to the State (this is currently not being done).

3. Cross-reference the AOA reports with the tax department's records, and conduct audits and issue fines as necessary.

4. By law all non-resident owners already need to have an on-island representative for their condos. I am not sure if it currently is reported to the AOA, but don't see this as being a problem. 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 the Caribbean, for instance). Also it does not penalize those non-resident owners who are obeying our laws and filing taxes.

Vacation rental agencies prefer the other approach as it eliminates much of their competition and is expected to bring them large profits. However, the negative impact on property values and tourism dollars will be huge for the State of Hawai'i, definitely not in the best interest of all Hawaiians.

Thank you for carefully considering our future.

Mahalo,

Cara Birkholz

29 S Kukui Pl
Kihei HI 96753
808-281-7934
carabirk@gmail.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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

Comments:

I am 100% in support of enforcing tax law compliance. However, I do not understand the logic behind exempting resident owners from this bill and am 100% opposed to its passage. The implication is that nonresident owners might evade the law, but resident owners will not. This is patently discriminatory and simply illogical.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Don Scarr
Organization: Individual
E-mail: scarrsy3@telus.net
Submitted on: 3/27/2012

Comments:

I have rented a condo from VRBO several times and have had nothing but positive results. It is always great to deal directly with the owner and saves time and money, thus creating a strong tourist base.
Thank you,
D. Scarr

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie Aitken
Organization: Individual
E-mail: baitken@knightart.com
Submitted on: 3/27/2012

Comments:

Dear Senators:

Thank you for the opportunity to provide input on HB2078H.D.2 SD1. 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. I display my tax information in my condo for my guests. These laws already exist.

This bill is in violation of the US Constitution as it is discriminatory and places an unfair burden on a nonresident owner of a transient vacation rental property. This is a direct violation of the commerce clause. Hawaii is a state in the United States and must abide by its laws. Failure to do so will cause legal action against the state of Hawaii brought by the citizens of both the United States and Canada. You are also violating NAFTA.

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 licensed real estate broker or salesperson who is responsible for the management of the property. 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.

Mahalo,

Bonnie Aitken

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:

Aloha,

I am writing in opposition to HB2078 HD2 SD1. I will attempt to keep this short as this is the 5th bill this session to make such a proposal (HB1706, HB1707, SB2089, HB2078 and SB2947) . This bill should be defeated for the following reasons:

- 1) The Attorney General has testified that the out-of-state provision may violate the US Constitution.
- 2) The Real Estate Commission testified that the bill violates Hawaii Statute 467-2(1) which allows a property owner to manage their own property without the use of a real estate agent.
- 3) The Hawaii Association of Realtors testified that any requirement should apply equally to residents as well as non-resident owners.
- 4) The Department of Taxation testified that the results of a 2007 audit of Transient Accommodations found, for the most part, transient accommodations providers are tax compliant.
- 5) The bill is in violation of the Supreme Court Case of Bacchus Imports, Ltd. v. Dias, 468 US 263 (1984).
- 6) The Department of Taxation's Annual Report for 2009-2010 lists 57 cases being heard in Tax Court relating to Transient Accommodations Tax issues. 55 of them are against property managers.
- 7) The Hawaii State Auditor recently released the results of its audit of the Department of Taxation. The findings show a department in such disarray that it is unlikely that the additional provisions such as registration and tax clearance could be accomplished. This would be a consumer protection issue for the property owners who would be unable to have the necessary documents and approvals processed.

When considering the consumer protection aspects of this proposal I can relate my own experiences when my property was managed by a real estate agent. The property was absolutely disgusting. The furniture was falling apart with nails sticking out of the sofa, the curtains were held together with duct tape, the carpets were allowed to remain stained and ripped. Since the agent did not have a vested interest in the property, it was rented to prostitutes and drug dealers on a regular basis. Once I began managing the property myself, I invested over \$70k into improvements and upgrades. The consumers are now much better protected under my management than they ever were under the real estate agent. Many other owners have had similar experiences.

In conclusion, what about the consumer protection rights of the property owners? We purchased our properties under the then current regulations and are now in danger of having those rights retroactively revoked.

Thank you for your consideration of these points Michael J. Marion

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:

Aloha Committee Chair and Honorable Senators,

I hope that you will consider the testimony below and oppose this bill for the following reasons.

The mandate that any nonresident owner who operates a transient accommodation employ a real estate broker or hotel operator is problematic on a number of grounds.

1. It restricts the right of visitors to decide if they would like to rent directly from an owner or from an agent.
2. It will hurt tourism since rent-by-owner bookings now constitute a large and growing sector of the Hawaii tourism market and they will go elsewhere e.g. to Mexico or the Caribbean if they are no longer allowed the freedom to rent directly from owners without middlemen (See testimony of individual tourists in SB2089).
3. It will hurt property values since many owners will sell and investors will be reluctant to invest if they are stripped of their rights to manage their own properties.
4. It is unconstitutional since it discriminates against nonresidents, violating the equal protection and immunities clauses of the US Constitution (See letter from Gregory Kugle of the Honolulu law firm, Damon Key Leon Kupchak Hastert/ supplied in testimony to SB2089).
5. It may also violate NAFTA (see testimony by Adam Leamy in relation to SB2089).
6. No credible evidence has been presented to indicate that nonresidents should be singled out as less tax compliant than residents. Moreover the Department of Taxation testified in 2007 that there was not a general noncompliance problem as far as transient accommodations and there is no new credible evidence so suggest that this situation.
7. This same mandate with almost the same wording was rejected in relation to another bill, SB2089. One of the arguments then made was that Hawaii is enriched by a diversity of accommodation types including rent-by-owner books that offer a unique "personal touch".
8. Exemptions are not clarified.

The requirement that the name and phone number of "a local point of contact" be included in any rental contract and posted in the accommodation is reasonable.

The requirement that the Tax Department issue registration ID numbers to aid tax compliance is reasonable, but only if such numbers are issued to ALL owners. Otherwise this requirement appears to unfairly and unreasonably select out a category of owners (nonresidents) for enforcement and could be perceived as unduly discriminatory since no special evidence is provided to indicate that they should be differentially treated.

Mahalo for your consideration,

Kathy Sheehan

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:

I purchased and have been operating a legal short rental condominium property in the Kaanapali resort area of Maui 10 years ago. Since that time I have faithfully remitted almost \$50,000 in TA and GE taxes. We provide for on-site maintenance staff through the association, full access to front desk check-in facilities and hotel bell services and a superior quality of cleaning services with a local small business. We have continuously invested in upgrades to the unit to the extent of \$150,000 invested with work and material through local businesses. The very high number of returning guests, occupancy over 95% and being booked up a over a year in advance are all indicative that this is the service that regular Hawaii visitors are looking for and recommendations to friends are a frequent occurrence.

All this will change if this bill is passed into law. As a condominium in a condo hotel we would be forced to use the resort hotel for renting our property. (This a highly visible hotel operator chain that has advocated these changes from which they stand to significantly gain at my expense - name stating with Out and ending in er. This operator charges over 40% of gross revenue for managing the property.) Current occupancy rates being less than 70% indicate that room inventory is not the issue. The hotel operator cannot fill existing rooms, and this bill would add 104 units to the existing 88 units in the rental pool. Without

the additional marketing provided by the independent renters, occupancy rate will fall well below 40%. This will be devastating to all owners at this hotel resort.

The reality is that independent rental unit owners draw large numbers of returning vacation visitors to Hawaii each year. These vacationers are looking exactly for the services that are provided by these owners, and will go elsewhere if they cannot achieve that in Hawaii.

Please reject HB2078.

Respectfully
Geoff Scotton

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Neal Halstead
Organization: Individual
E-mail: nealhalstead@yahoo.ca
Submitted on: 3/28/2012

Comments:
Aloha

Thank you for the opportunity to comment on the revised bill HB 2078. While I do oppose it, there is much about it I can stand behind. However, there are some omissions which must be addressed.

1. Much power is put into the hands of real estate brokers and salesmen. However, there are no safeguards for the owners forced to hire real estate brokers. There should be fee caps on what realtors can charge; realtors should be required to take on any owner who requests their service; their books must be subject to an annual audit by a CPA in good standing and be subject to random audits by the State; and they must carry insurance or contribute to a state-wide insurance program to protect owners in case the realtor goes bankrupt.

2. I am concerned that the exemption in paragraph (e) puts the decision making ability in the hands of the real estate commission. While I understand the desire to outsource that from government, the phrase "any other applicable tax form" is open to abuse. The requirements need to be clearly specified and there needs to be an arbitration mechanism in place. The real estate commission obviously has a vested interest in denying the applications they receive.

I also wish to draw your attention to the 2010 annual report of the Hawaii Department of Taxation. Of the 57 cases they took to tax court regarding Transient taxes, 55 of them related to management companies and only 2 were individual owners.

If the above suggestions are considered and adopted, I will be happy to write a support letter at the next stage. But, as it stands now, the proposed bill has some significant issues.

Kindest regards

Neal Halstead, CA
162 Patrick View SW
Calgary, AB
Canada, T3H 3B1

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rob Jenneve
Organization: Island Adventures
E-mail: islandadventures@cox.net
Submitted on: 3/28/2012

Comments:

PLEASE VOTE NO ON THIS BILL TO HELP PREVENT MASSIVE, IF UNINTENDED, NEGATIVE ECONOMIC CONSEQUENCES TO THE STATE OF HAWAII AND IT'S RESIDENTS.

This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by the tax authority, academics, lawyers and tourism personnel.

- No further action should be taken until evidence can be presented that local Property Managers are more effective than owner-managers in any of the following key areas:

- have a higher compliance rate of paying GE and TA taxes due as compared to owner-managers.
- protecting the financial interests of the property owner and renters alike
- encouraging more visitors to State of Hawaii
- taking better care of their guests once they arrive

- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased there properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-manafgers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.

- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo unit that must be rented

through a management operator is less valuable than one that can be lawfully rented by its owner.

- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a defacto monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.

- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.

- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic; the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system that lists both owner-managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.)

- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by impersonal management firms. The experience of connecting the owner to the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as its owner.

- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mis-treat their guest. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.

- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner responds to dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.

- Visitors will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking

on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '

- Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.

- Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units so that the tax filings can be monitored and non-paying owners brought into compliance. Owners who are already in compliance with State laws, and who pay their taxes, should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:

Honorable chair, Vice chair and Committee Members

I am opposed to HB 2078

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 job(s), also.

When we speak of Consumer Protection, it seems like 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. The only way that owner's will be able to keep their condos, afford to have guests, while seeing that the "property managers" receive their "fee" would be to increase all the room rates across the board. With this

bill, only residents, would be exempt from having to hire "property managers" and their room rates could remain reasonable, which does protect the consumer.

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 leading the way 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 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gerald H. Johnson
Organization: Individual
E-mail: rascalnorth@aol.com
Submitted on: 3/28/2012

Comments:

I oppose this bill.

It is another example of the government over regulating small business and hurting the economy.

There are 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

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Eckel
Organization: Individual
E-mail: john.eckel@pinninvest.com
Submitted on: 3/28/2012

Comments:

Mahalo for the opportunity to testify on this HB 2078

When I travel throughout the US and Europe, I strongly prefer to rent directly from property owners rather than through a hotel, salesperson or realtor. It has been my experience that not only do those property owners know the details of their property better, they take much better care of their property than do the owners who rent through realtors, salespeople or condo management firms. They have been more responsive to my needs, and honest in their dealings with me.

The only place I ever traveled that restricted how I could obtain accommodations was a visit to Czechoslovakia behind the iron curtain in the 1970's. Certainly the State of Hawai'i is not looking to revive that government model is it?

I have rented directly from owners in many US states as well as in France, Croatia and Italy and it would certainly reduce my interest in visiting a location where that is not allowed.

So it will most likely affect tourism and local merchants.

I am not aware of any other state or country which mandates that I must rent accommodations through a realtor or salesperson.

If I can purchase property directly from an owner, why would the State of Hawai'i want to restrict my ability to rent directly from an owner?

I am not knowledgeable about the tax issue, but I wonder why Hawai'i believes that they have problems collecting taxes on rental property, when other states do not. Do you have any statistics comparing non-compliance in the State of Hawai'i with that in other states? If there is a difference, is the problem the result of something unique about Hawaii property owners, or could the problem be related to problems in one or more of the State Agencies?

I suspect that the unintended consequences of the bill will be extremely bad for the entire State of Hawaii, with the possible exception of hotels, realtors and sales people who will be given a very valuable gift from the legislature, at the expense of everyone else.

Mahalo for considering my testimony.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Keith and Joanne Rathgaber

Organization: Individual

E-mail: rathgaber@hawaiiantel.net

Submitted on: 3/28/2012

Comments:

We are taxpaying non residents owners in Kihei Maui, and oppose the wording of this bill. We wish that you would just enforce the laws and regulations that are in place already. We DO NOT want to have realtors or property managers manage our unit. The bill as worded, is discriminatory and unconstitutional and also violates Article 1102 of NAFTA. This bill will only hurt Hawaii's fragile recovering economy. We have no issue with having to have a registration number and having our local contact clearly listed in our suite. We have had only negative experiences with property managers in the past and we strongly urge you to remove - employment of a real estate broker or property manager from this measure. This Bill, if passed will no doubt be challenged in Federal Court and defeated. Thank you.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ryan Eckel
Organization: Individual
E-mail: Jecke@pinninvest.com
Submitted on: 3/28/2012

Comments:
Aloha Honorable Committee Members

I oppose HB 2078 as totally unecessary and onerous.

A renter can purchase insurance from VRBO for under \$50 in most cases.

In comparison, insurance on deposits is not avaiable on the purchase of wedding dresses and with building contractors.

And property owners have a much more difficult time picking up and leaving town compared to almost every type of business.

When I stand back and look at the onerous conditions that this bill proposes to place on property owners even when insurance is avaiable and compare this bill to regulations placed on other service providers where no such insurance is avaiable, it seems that no attempt is being made to be even handed or fair.

Please consider what conditions you want to impose on property owners when the renters already have access to insurance and vote to defer this bill.

Mahalo

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gerry & Barbara Clark
Organization: Individual
E-mail: gerrybarb@shaw.ca
Submitted on: 3/28/2012

Comments:

We are taxpaying non residents owners in Kihei Maui, and oppose the wording of this bill. We wish that you would just enforce the laws and regulations that are in place already. We will not have realtors or property managers manage our unit, as they would receive compensation without investment. Further, should this bill pass, we would discontinue renting, thereby reducing visitations to Maui. The bill as worded, is discriminatory and unconstitutional and also violates Article 1102 of NAFTA. This bill will only hurt Hawaii's fragile recovering economy. We have no issue with having to have a registration number and having our local contact clearly listed in our suite. We have had only negative experiences with property managers in the past and we strongly urge you to remove - employment of a real estate broker or property manager from this measure. This Bill, if passed will no doubt be challenged in Federal Court.

Thank you.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robin Jenneve
Organization: Individual
E-mail: motuman@cox.net
Submitted on: 3/28/2012

Comments:

Please vote NO on this Bill to protect the Hawaii's fragile Tourism Industry and Real Estate Market.

I am a tax paying condominium owner in compliance with existing regulations who bought at the peak of the Real Estate market. I can assure you that mandating the use of a local condominium hotel operator will force me, and many others like me, into foreclosure on our Hawaii property.

Please consider that there are three distinct sets of property owners being addressed in this bill.

- 1) Owners of properties that are zoned for TVR and who are paying their taxes and complying with local regulations
- 2) Owners of properties that are zoned for TVR who ARE NOT paying their taxes and/or complying with local regulations
- 3) Owners or properties that are not zoned for TVR who are taking short term vacation rentals

In order to pass effective and beneficial legislation you must address each of these groups individually.

Grouping these owners together is the legislative equivalent of spraying machine gun fire into a crowd and hoping to hit a few bad guys. In this case the collateral damage will be the Hawaiian economy and property owners in compliance with existing regulations. The direct to owner vacation rental market is the fastest growing segment in the travel industry and is a vibrant part of Hawaii's economy. Forcing law abiding owners-managers into local management companies will add 25%45% to their overhead and have a chilling negative effect on the Hawaiian economy and it's people.

Please carefully consider some of the effects of eliminating law abiding owner-managers:

- Reduced real estate values, possibly triggering a new wave of foreclosures in the condominium market.
- Reduced property tax revenue resulting from lower property values.
- Loss of GE and TE taxes from owners "forced underground" via overly restrictive legislation
- The specter of a massive and expensive class action law suit filed against the State of Hawaii for unconstitutionally stripping property owners of their rights.

- Loss of visitors to destinations that allow direct to owner rentals (i.e. every other vacation destination!) • The loss of visitors to who were enticed to Hawaii via the massive online marketing network of direct to owner rentals.
- The loss of thousands of owner-managers acting as goodwill ambassadors and promoting travel to Hawaii on a daily basis.

Given the fragility of our economy, real estate market, and Tourism Industry (already under threat from increasing air prices) now is not the time to pass this well intentioned, but poorly reasoned and researched, piece of legislation.

Thank you for your consideration

Rob Jenneve
Maui condo owner

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

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: 3/28/2012

Comments:
Dear Senators,

We oppose HB2078.

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 submitting GET & TAT received from guests.

It is clear that with the recent introduction of bills HB1706, HB1707, SB2089, SB2078, and now, HB2078 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 reasoned arguments submitted in opposition to this bill. Rather than take up your valuable time, I would simply ask that you add our voices in opposition to HB2078.

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 HB2078.

Mahalo for considering our testimony,

Keith and Della Halvorson

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dorothy Larsen

Organization: Individual

E-mail: dotlars@frontier.com

Submitted on: 3/28/2012

Comments:

As a non-resident owner in the beautiful state of Hawaii, I am begging you not to pass this bill. The effects of this bill will be devastating to me, and to the people of Hawaii. 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: Dorothy Larsen

Organization: Individual

E-mail: dotlars@frontier.com

Submitted on: 3/28/2012

Comments:

As a non-resident property owner in the state of Hawaii, I am opposed to being forced into using a property manager. My property is successfully handled privately, and using a property manager takes away my rights as an owner. I oppose this bill.

Thank you for your consideration,

Dorothy Larsen

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Norb Wolszon
Organization: Individual
E-mail: idivedeep@aol.com
Submitted on: 3/29/2012

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

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dr Albert W Merrill
Organization: Individual
E-mail: Buzz@mahana308.com
Submitted on: 3/29/2012

Comments:

Hawaii should receive all the tax revenue that is required and which I have paid since I became an owner in 1978. This measure puts money in the pockets of the rental agents not the state of Hawaii and greatly reduces the desirability of ownership by non Hawaiian citizens as well as increasing costs to tourists. Both of which will reduce proerty and TA and GE tax revenue. Pass a bill that focuses on the tax cheaters not law abiding citizens. This measure discriminates against non Hawaiian residents and is unfair and UNCONSTITUTIONAL and will be overturned by the courts as such at great cost of legal fees to the state. I love Hawaii. I am continuing to work to support the nation defense with a high security clearance (for over 43 years) and you should be trusting and treating me with respect not some "agent". Do the right and EFFECTIVE things in this matter.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: JIM CASH

Organization: Individual

E-mail: jimcash@stanleyind.com

Submitted on: 3/29/2012

Comments:

Comments:

I am against HB2078 HD2 SB1! We have a family condo in Maui that we rent out ourselves. We do not want to use a Management Company or Rental Agency to do our renting. We pay all of the taxes for our unit and should not be forced into using another company to do our renting. Of course the Rental companies are all for this proposal as they will profit much from it. The cost of rentals will go up dramatically if this is passed, and tourists have other options on where they can go for vacations that would be cheaper than Hawaii. I am sure the Bahamas or Jamaica would be happy to get the Hawaii tourists. The tourist industry will be hurt by the passing of this. I do not want to be punished because some do not pay their taxes. I am opposed to this bill!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Adam Leamy

Organization: Individual

E-mail: aleamy@northwestpublicaffairs.com Submitted on: 3/29/2012

Comments:

Dear Senator Baker and Committee Members:

In providing the attached testimony to you and others as noted, I am asking that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them – which in both cases will be far superior to mine – to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB2078 HD2, SD1 Amended supports and upholds the spirit and intent of NAFTA, and the provisions and protections it offers cross-border investors.

HB2078 HD2, SD1 Amended requires that,

[A]ny nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. Effective 7/1/2013. (SD1)

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 HB2078 HD2, SD1 Amended 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 by ascribing to Canadian investors the term "nonresidents." This would appear to offer significant contrast to the commitments and protections embodied in NAFTA Article 1102: National Treatment.

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.

Thank you again for your efforts to advance Hawaii policy objectives that enhance the underpinnings of the important trade relationship between our two countries. I would be pleased to assist in any way to advance state policy objectives in this regard.

Sincerely,

Adam

Adam Leamy
Victoria, BC
Canada

Attachment

March 29th, 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

Dear Senator Baker and Committee Members:

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 HB2078 HD2, SD1 Amended (and recent Hawaii State Legislature bills similar to it).

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 our apartments are cared for and attended to by Tips Maui, Inc., owned and operated 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 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 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, grassroots 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.

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, to seek their efforts in providing helpful input to Hawaii State Legislature on bill HB2078 HD2, SD1 Amended. It is my hope that they may be able to assist in ensuring HB2078 HD2, SD1 Amended 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 HB2078 HD2, SD1 Amended 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), Chairman, 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 Cassie Doyle, Consul General of Canada in San Francisco (resp. for Hawaii)
- Perrin Beatty, President and CEO, the Canadian Chamber of Commerce, Ottawa, Canada

I start by saying that I am a responsible and documented part of the Hawaii Tourism Industry. I respect United States sovereignty over its affairs, and that of the individual States over theirs. So I do not consider it my place to offer a stance on this bill. I do hope, however, that my input — to the extent it might reflect the principles that underpin your deliberations and debates — might be considered in your actions regarding your responsibilities related to this and similar pieces of legislation.

My investment in the United States, in the State of Hawaii was shaped in part by the provisions and opportunities inherent in the "North American Free Trade Agreement" (NAFTA), which began on January 1, 1994. This agreement removes most barriers to trade and investment among the United States, Canada, and Mexico. My operation of this investment is fully in keeping with the scope and purpose of that Agreement, the requirements of all appropriate local, State, and United States tax laws, and is in accordance and compliance with the "United States — Canada Income Tax Convention," a tax treaty between our two countries signed at Washington, D.C. on September 26, 1980, and which entered into force on August 16, 1984.

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.

On the Hawaii State Legislature webpage, HB2078 HD2, SD1 Amended is identified as follows:

Measure Title: RELATING TO TAXATION.
 Report Title: Transient Accommodations; Nonresident Owners

Description: Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires the department of taxation to issue a registration identification number for each nonresident owner, which shall be included as part of the relevant information related to an owner who may be leasing property as transient accommodations. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. Requires the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation. Effective 7/1/2013. (SD1)

On this same Hawaii State Legislature webpage, "Nonresident Owner" is defined as follows:

[A]n owner of a rental property in the State who resides on a different island from the property or out of state and who rents or leases the property to a tenant.

This and recent similar bills progressing through the Legislature make and apply to "nonresidents" management and operation standards and requirements from which 'residents' are exempted or are largely exempted. And it is this distinction that forms the basis of my uncertainty about HB2078 HD2, SD1 Amended: Are not Canadians who are investors in Hawaii and who have investments there to receive treatment no less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors and to investments of resident Hawaii investors?

I referenced, earlier, the North American Free Trade Agreement. Signed by U.S. President George H.W. Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney, NAFTA came into effect on January 1, 1994. Since that time, NAFTA has, for all three countries, generated economic growth and increasing standards of living. In strengthening the rules and procedures governing trade and investment throughout the continent, NAFTA has opened doors for our countries. As important, for each of us individuals, it has allowed us to make investments, create enterprise, and drive prosperity.

I am not a legislator, a trade expert, or a NAFTA expert. Nor am I a government official possessed of, or with in-house access to, this level of expertise. I own a small business, and with my profits and personal savings, I have invested in these two properties in Hawaii. So when, in trying to come to terms with HB2078 HD2, SD1 Amended and similar recent Hawaii State Legislature bills that hold provisions for "nonresidents" that do not apply to "residents," I turned to NAFTA, Chapter 11 (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 recognize that I may well be wrong in considering this NAFTA provision to be applicable to me, and to other Canadian citizens who have made cross-border investments in vacation accommodation properties in the United States, and who are unsure about HB2078 HD2, SD1 Amended. But on the chance that I am not, and other current or potential Canadian investors find themselves in a similar position and are unsure about this and other Hawaii bills, 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.

I am asking, therefore, that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them — which in both cases will be far superior to mine — to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in HB2078 HD2, SD1 Amended 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.

As I said at the outset, I am a Canadian. 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.

I realize NAFTA may seem a long ways away from the intent and purpose of this and similar Hawaii State legislature bills. But in the case of Canada and the United States, this linkage is so very strong, and whether we think about it frequently or not at all, it very much defines the relationship between our two countries, and offers a standard of treatment to which countries around the globe aspire, and in which they seek to participate. And for this reason, too, I think that care must be taken not to weaken this standard of treatment.

The Government of Canada makes some helpful findings of the importance of this relationship on its website <http://www.canadainternational.gc.ca/washington>. It notes that:

- Trade between the United States and Canada is huge and growing. Total trade between the two countries was worth \$676 billion in 2008 — more than one million dollars a minute.

- Canada is the top purchaser of U.S. exports, which was \$248.2 billion in 2010.
- Canada is the biggest export market for U.S. products, ranked Number 1 in 34 states as the leading export market for goods in 2008, and Number 2 in 11 others.
- More than 8 million U.S. jobs depend on trade with Canada. That's 4.4% of total U.S. employment — 1 in 23 American jobs depends on free and open trade with Canada.
- In Hawaii, in 2008, 40,465 jobs, or 4.6% of the total jobs in the state were related to trade with Canada. In that same year, almost \$2.38 billion of the Hawaii's output, or 3.7%, was related to trade with Canada. (Source: U.S.-Canada Trade and U.S. State-Level Production and Employment: 2008; Laura M. Baughman and Joseph Francois.)

I note also that in January of this year, the Hawaii Tourism Authority underscored the value of Canadians to the State's tourism export, when it reported that Canadians travel in party sizes of two or more, are more commonly repeat visitors, independent travellers, and stay in hotels and condominiums. Canadian vacationers get the accommodation they want, and the State reaps great benefit from its tourism export to Canada. As the Hawaii Tourism Authority reports, in 2011 alone, visitor arrivals from Canada were *the* dynamic force in Hawaii tourism, spending close to \$1 billion, with arrivals up almost 20%, and spending per day up 5%. In fact, total expenditures by Canadians "increased in every month of 2011."

It is a curious thing, indeed, that any Hawaii policy or legislative action would appear to target Canada, Canadians, and the trade agreement that collectively contribute so much to the State's tourism export and its economy.

Trade and investment flow both ways, and data showing the importance of the United States to Canada are just as impressive indicators of the power of the trade and investment relationship between our two countries. When advancing these facts, the same Government of Canada webpage notes that these gains underscore the need for making sure that our border remains open to trade. And United States government webpages make the same assertion; government policy on either side of the border that hinders or weakens investment costs jobs in every state and every province — and, I think it is fair to say, given our relationship, hinders confidence in others around the globe who would consider investing in our countries.

The NAFTA protections on national treatment notwithstanding, I note that in respect of HB2078 HD2, SD1 Amended, the bill would require "the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation." This seems a practical, and respectful amendment. Indeed, 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 through my operational control of my units I am already addressing that circumstance. 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 "the name and phone number of a local point of contact for each transient accommodation to be included in any transient accommodation contract or written rental agreement and to be prominently posted in the transient accommodation" there is an underling intent, or desire to see someone other than myself have full control over that or any other such 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 Unites 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.

Hawaii State Legislature bill HB2078 HD2, SD1 Amended and others like it appear to be aimed at making sure that all who benefit from Hawaii and the United States contribute as required to keep Hawaii, and the United States running. We have precisely the same obligation where we live here in Victoria, in the Province of British Columbia, located in the country of Canada.

In these difficult economic times, it seems practical for any government to pursue tax scofflaws, law breakers, and free-riders whose choices not to participate in proper documentation, remittance, and compliance hurt us all. But to do so the manner of Hawaii State Legislature bill HB2078 HD2, SD1 Amended 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 bill HB2078 HD2, SD1 Amended 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."

So if NAFTA shaped these cross-border investments by individuals, or if it governs their treatment in either country, it seems to me that action by a state to impose a different standard of operation on real estate investments by Canadian owners not resident in the state — or by a province on real estate investments by Americans not resident in the province — undermines NAFTA and creates significant tax liabilities for governments in both countries. And this would be a terrible course of action for both our countries. It seems quite possible to me that if one state can advance legislation to change the rules of NAFTA to impose different standards and costs on Canadian investors, legislative creep could see other states do the same, and in time, Canadian provinces undertaking the same course to target Americans who own property in Canada. I think we owe each other better, but I concede that for all manner of governments, these are difficult and desperate times. Perhaps HB2078 HD2, SD1 Amended correctly signals that the time for trade agreements has passed.

In closing, irrespective of tax treaties and trade agreements that make my ownership of two properties in the United States possible, it always has been and continues to be a privilege that I am able to do so. I work very hard to provide an exceptional guest experience, and I am proud of my success in attracting visitors from around the globe to Hawaii, Maui, and Hale Kai O' Kihei. And yes, to my two apartments there. And part of the reward in this is knowing that I am making all tax collections and remittances to support the schools, hospitals and infrastructure that are essential to life, community, and opportunity in Kihei, Maui, and Hawaii, and that I value just as highly here, and support through my Canadian tax compliance.

But I would request that if the 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 compliance and make filings and remittances that are essential to the services and programs and thus the security and prosperity of Hawaii and the United States.

We care, and we would help.

There are thousands of good and willing people amongst those who have the privilege of owning rental properties in Hawaii. I know they would work with the State to assist others to achieve the standard of responsibility. Even given my status as a foreigner, I would be willing to help. There are ways to secure the participation of those who are not in compliance with Hawaii and United States tax requirements without sapping the strength or support of those who are, and importantly — which I fear is the case with HB2078 HD2, SD1 Amended — without disregarding the commitments and protections that give credibility, strength, force, and stature to NAFTA.

The benefit of 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 owners have proven — be they American, Canadian,

or of other nationality — that purchase can be and is the start of the flowing of benefits 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 HB2078 HD2, SD1 Amended 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
773 Island Road
Victoria, BC V8S 2T8
Canada

Tel: 250-592-4778

Email: aleamy@northwestpublicaffairs.com

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bob Wong

Organization: Individual

E-mail: ke.aloha.no@gmail.com

Submitted on: 3/29/2012

Comments:

aloha,

I support paying tax - but am opposed to inserting property managers or realtors into the equation. Tourism is coming back, this could have devastating effect on it. Property managers are the only ones to benefit from this law, everyone else loses!

mahalo

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Joel Goldman
Organization: Individual
E-mail: donutking1@gmx.com
Submitted on: 3/29/2012

Comments:

Aloha,

I am writing to oppose HB2078 HD2, SD1 Amended. This bill is discriminatory against non resident owners while implying that resident owners all comply with the laws. While there are indications that non resident owners can get exemptions, the details of which are severely lacking and based on the implementation date of July 1, 2012, make it virtually impossible to get an exemption by that date. With the bill requiring only one type of entity to control the TVR market, owners lose much control over their investment and face a real possibility of loss of income resulting in a flood of "for sale" on a market already depressed. I believe there are many other ways for the state to determine who is complying with current laws and who is not. Passage of this bill will result in the loss of much income for a state already reeling from a downturn in tourism, while benefiting only 1 group, realtors/rental managers. In my experience, I initially had a local realtor renting my property. In 1.5 years this person managed to rent my unit for 15 days. Do you think I can continue to pay property taxes and upkeep with 15 days of rental income out of 1.5 years? There would be another condo on the market at less than market value. Please consider opposing this bill.

Mahalo

Joel Goldman

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert/Diane Burns
Organization: Individual
E-mail: rjbdixie@aol.com
Submitted on: 3/29/2012

Comments:

We have owned our Condo less than 2 years. WE have Our Hawaii Tax ID # and have paid all TAT and GE Taxes when due. We have only been able to Rent 210 nights this past year which was below our break-even number. Expenses for us are \$2000 a month for this Condo. We make a min of 2 trips a year to make improvements and make necessary purchases. Bathroom up-date for \$11,000 new furniture and appliances another \$3700 plus the painting. All this needs to be considered as a plus for the Hawaii economy.

Bottom line if this legislation becomes law, we will be FORCED TO SEE OUR CONDO. MAHALO

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Judy Cash
Organization: Individual
E-mail: judycash@comcast.net
Submitted on: 3/29/2012

Comments:

Support paying tax - but are opposed to inserting property managers or realtors into the equation

Law is unconstitutional as it targets non-residents only.

Going to raise the cost of doing business in Hawaii and the rental rates will have to go way up to cover the additional cost, plus the renters lose the one on one with owners which they really like.

Exemption needs to be spelled out and explained fully in any proposed legislation

Tourism is coming back, this could have devastating effect on it

Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell - flooding the market

Property managers are the only ones to benefit from this law, everyone else loses!

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Laura SatoWong

Organization: Individual

E-mail: rcbdw@yahoo.com

Submitted on: 3/29/2012

Comments:

aloha,

I support paying tax - but are opposed to inserting property managers or realtors into the equation. Tourism is coming back, this could have devastating effect on it. Property managers are the only ones to benefit from this law, everyone else loses!

mahalo

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position:

Testifier will be present: No

Submitted by: Nancy Bertson

Organization: dba Nancy H Bertson

E-mail: nbertson@yahoo.com

Submitted on: 3/28/2012

Comments:

This bill will raise the lodging costs to the many visitors who visit Hawaii and stay at rentals by owners. Many of these visitors will choose to travel somewhere more affordable than Hawaii in the future if this bill passes.

Repercussions will be felt throughout the Hawaii tourist industry, from the airlines to tourist industry employees. Self-employed housekeepers who care for the rentals by owners will lose their well paying jobs. If they are lucky, they will be hired to clean for the realty run rentals for a drastically reduced income.

Housing values will decrease even further as owners try to sell their units that they can no longer control themselves. Values will decrease even further when potential buyers turn to other locations for their vacation home purchases.

This bill will do nothing to enforce payment of taxes. Those of us who have always paid our excise & ta taxes will continue to do so. Those who don't pay taxes now will continue to not pay taxes.

At a time of economic adversity, this bill is nothing but a money grab by greedy realtors at the expense of the Hawaii people and economy.

This ripple effect will be felt throughout the Hawaiian economy except for one group: the Hawaii realtors. This bill is nothing but a money grab by greedy realtors at the expense of Hawaii's people and its economy.

Please vote no. Mahalo.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Laurie Morris

Organization: Individual

E-mail: lauriefall@gmail.com

Submitted on: 3/28/2012

Comments:

I oppose HB 2078 HD2, SD1 amended as it will make renting a condo in Hawaii much more expensive for us and more difficult to do.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim Fall

Organization: Individual

E-mail: jimfall@gmail.com

Submitted on: 3/28/2012

Comments:

I oppose HB 2078 HD2, SD1 amended as it will make renting a condo in Hawaii much more expensive for us and more difficult to do. We may have to choose to travel elsewhere rather than Hawaii.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Andrea Fall
Organization: Individual
E-mail: andreafall@gmail.com
Submitted on: 3/28/2012

Comments:

I oppose HB 2078 HD2, SD1 amended as it will make renting a condo in Hawaii much more expensive for us and more difficult to do. It is a terrible Bill and is a power grab by the realtors to earn more money at the expense of condo owners and tourists. We may have to choose to travel elsewhere rather than Hawaii.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carole Burnham
Organization: Individual
E-mail: carolefall@comcast.net
Submitted on: 3/28/2012

Comments:
Carole Burnham.
28 March, 2012

Re: HB 2078 HD2,SD1 amended

Dear Representative Members of the Hawaii House of Representatives Tourism Committee:

I understand the need to collect both TA and GE taxes for all short term rentals in Hawaii. Have you solicited input from the independent renters in the State of Hawaii? This bill would cost owners dearly, from 20 to 40% of their rental income. For my one unit I would have to pay at least \$30,000 a year in commissions to a realtor and I would lose much of the control in choosing guests. This bill is merely a financial windfall to the realtors. Because many owners would chose not to rent or sell their unit rather than rent it through a realtor, and the prices of rentals will go up dramatically you may well lose availability of many vacation rentals and reduce the number of visitors coming to Hawaii. Visitors have choice and this bill may result in the State collecting less TA and GE tax. I have been renting privately for more than 25 years and I have always paid my TA and GE taxes.

There has to be a less onerous way to enforce collection of taxes which is what I understand is the goal of this bill. Work with the rental industry especially the private rental market not just the realtors to come to a less onerous solution. This bill is the epitome of government interference. Please vote no on HB 2078 HD2,SD1 amended.

See this as it is: a money grab by the Hawaii Realty Management companies.

Sincerely,

Carole Burnham, owner
Unit 1252, The Whaler on Kaanapali Beach Maui, Hawaii

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gordon Fall M.D.
Organization: Individual
E-mail: gfall@hotmail.com
Submitted on: 3/28/2012

Comments:
Gordon Fall M. D.
28 March, 2012

Re: HB 2078 HD2,SD1 amended

Dear Representative Members of the Hawaii House of Representatives Tourism Committee:

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There has to be a less onerous way to enforce collection of taxes which is what I understand is the goal of this bill. Work with the rental industry especially the private rental market not just the realtors to come to a less onerous solution. This bill is the epitome of government interference. Please vote no on HB 2078 HD2,SD1 amended.

See this as it is: a money grab by the Hawaii Realty Management companies.

Sincerely,

Gordon Fall, owner
Unit 1252, The Whaler on Kaanapali Beach Maui, Hawaii

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kim Sanderson
Organization: Individual
E-mail: k-sanderson@shaw.ca
Submitted on: 3/28/2012

Comments:

My head is spinning! Which bill is it this time that is attempting to insert a property manager into my vacation rental?

It seems I get a great sense of relief to read a bill which greatly concerned me is deferred, only then to be alerted that its contents have reappeared in another bill. This is both baffling and concerning.

I am opposed to any legislation HB 2078 - i oppose any bills:

- that mandates a third person into the equation. I take great care and attention managing our vacation rental and i do not want anyone else inserted into the process. They wont care nearly as much as i do, they wont provide the personal service I do. They also will charge me a fair amount, which in turn, I'll have to charge my guests, but that isnt the main reason - it is because i enjoy this, Im very good at it, and my guests really enjoy the experience staying at our condo.

- I support paying taxes. I collect and remit every cent. I have always supported taxes and believe strongly in the need for everyone to pay their fare, and if you arent, charge them fully.

I dont mind putting any information on my ads (i dont do any).

I dont mind, actually do already, list on on island resident manager on all my communication, and in my condo - he lives a few steps from our condo, has worked there for 30 years and is exceptionally good.

Miscommunication with my guests has never been an issue. During the recent weather in Kauai, I was on the phone to my guests and my resident manager many times.

If you would explain fully the exemption, i may be able to change my testimony to support; but as yet I've seen nothing that eases my worries about these bills. I only see things, that make me gravely concerned that somehow Hawaii legislature is going to mandate me to hire a property manager. So if you have some exemption, then please share it in detail so we can decide to support it.

Thank you, please make a decision on Friday to stop this legislation once and for all.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Paul Sanderson
Organization: Individual
E-mail: jpsanderson55@gmail.com
Submitted on: 3/28/2012

Comments:

I am opposed to any legislation HB 2078 - i oppose any bills:

- that mandates a third person into the equation. I take great care and attention managing our vacation rental and i do not want anyone else inserted into the process. They wont care nearly as much as i do, they wont provide the personal service I do. They also will charge me a fair amount, which in turn, I'll have to charge my guests, but that isnt the main reason - it is because i enjoy this, Im very good at it, and my guests really enjoy the experience staying at our condo.

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If you would explain fully the exemption, i may be able to change my testimony to support; but as yet I've seen nothing that eases my worries about these bills. I only see things, that make me gravely concerned that somehow Hawaii legislature is going to mandate me to hire a property manager. So if you have some exemption, then please share it in detail so we can decide to support it.

Thank you, please make a decision on Friday to stop this legislation once and for all.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Chad Lopez
Organization: Individual
E-mail: chad.767@yahoo.com
Submitted on: 3/28/2012

Comments:

Please vote to oppose this bill. HB2078 will only bring heartache to the people of Hawaii. This bill will not bring in more taxes to the state, on the contrary. A lot of owners will sell and get away from the state. Property values will come down and your tax revenue will also fall. This bill is NOT helping anyone, only the real estate companies.

I ask you respectfully to please oppose this bill.

Thanks,
Chad

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Suzy Lopez
Organization: Individual
E-mail: wuvpoohbear@aol.com
Submitted on: 3/28/2012

Comments:

I respectfully request that you vote in opposition of this bill. HB2078 is NOT good for Hawaii. Instead of creating a new bill that will only bring revenues to real estate companies, enforce your current laws.

Thanks
Suzy

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Eric

Organization: Individual

E-mail: ericmakena@hotmail.com

Submitted on: 3/28/2012

Comments:

I am opposed to this as it takes away my rights as a property owner to rent my condo, that is located in a hotel zone, as a short term rental. It adds another level of control and another finger in the profits with would have to be added to the already stressed tourist wallet.

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: Yes

Submitted by: samuel Levitz

Organization: Individual

E-mail: sailorsaml@gmail.com

Submitted on: 3/28/2012

Comments:

Opposing HB2078 HD2, SD1 Amended

Testimony for CPN 3/30/2012 9:30:00 AM HB2078

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Fereshteh Nikbakhsh-Tali

Organization: Individual

E-mail: Fereshtehtali@sbcglobal.net

Submitted on: 3/28/2012

Comments: