

LATE

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



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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: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2078 H.D. 2 S.D. 1, Relating to Taxation

The Department of Taxation (Department) supports the intent of H.B. 2078 HD2 SD1 and provides the following comments for the Committee's consideration.

SD1 requires any nonresident owner who operates a transient accommodation in his or her private residence to employ a real estate broker, salesperson or condominium hotel operator as the situation may require. The measure further requires condominium, community, and other associations of that kind to supply the Department with information on owners who may be leasing their property as a transient accommodation. The measure also requires the Department and counties to work together in furthering the enforcement of relevant state and county taxes. Additionally, the measure allows a nonresident owner to file a yearly tax clearance in lieu of hiring a real estate broker, salesperson or condominium hotel operator.

The Department defers to the Committee regarding the policy of requiring nonresident property owners to hire third party agents to manage their property and remit the taxes. However, the Department supports the intent to assist in the enforcement and collection of Transient Accommodations Tax (TAT) owed to the state.

Currently, one of the obstacles to enforcement of the TAT with individual property owners is verifying the number of room days and rates charged for each unit rented out. This is especially difficult if the property owner and renter are nonresidents, and payment occurs outside the physical boundaries of the state (i.e., over the internet). Unlike with larger hotels and timeshare properties which account for the use of each unit, there is no uniform way for the Department to monitor individual usage and applicable taxes owed for thousands of rental units.

While the Department supports the intent of the measure, the Department offers the following comments for the Committee's consideration:

- In subsection (b), the Department recommends that "relevant information" be defined; or, as an alternative, that the director of taxation may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.
- In subsection (c), the Department suggests requiring that the local point of contact information be provided by December 31, or within 60 calendar days of any change in the contact information or ownership of the transient accommodation.
- The Department believes that the requirement of subsection (d) is unnecessary. Section 237D-4 of the Hawaii Revised Statutes requires anyone engaged in the furnishing of transient accommodations to register with the Department. Upon registration, the Department issues the taxpayer a registration identification number.
- Subsection (e) allows nonresident owners to obtain an annual tax clearance in lieu of hiring a resident operator. The Department is unclear what constitutes "other applicable tax form[s]." Instead, the Department suggests the following replacement language, "or any other similar form which reflects taxes owed and remitted to the state under chapter 237D."
- For clarity, the Department recommends amending subsection (g) to read as follows: (g) Any fines for violations of this section shall be added to and become a part of the tax imposed by this chapter.

The Department would also like to clarify misinterpretations of the Department's 2009-2010 Annual Report. Opponents of H.B. 2078 H.D. 2 S.D. 1 have mischaracterized the Department's annual reporting of its cases on appeal or in litigation, inferring that the list is a complete list of the Department's appeals and litigation cases, and therefore, the parties named in the cases are less compliant than others. This is an inaccurate assumption to make. It is also equally inaccurate to assume that based on the taxpayer's name in the case – for example, management companies – it automatically means the taxpayer has not paid their requisite transient accommodations tax.

In fact, a review of the case description in the Annual Report reveals that most of these cases involve the applicability of the general excise and/or income tax. For the most part, the issue at hand is whether the GET applies to the gross receipts received by the management company for an interval ownership (time share) project, or whether a GET exemption available to condominium associations is applicable. In other words these issues deal with the appropriate tax rate on maintenance fees owed by time share owners. These are clearly different facts and circumstances from the issues at hand.

We would also note that in general, transient accommodations management companies tend to hire professional accounting firms or staff, familiar with Chapter 237D, to prepare and remit their transient accommodations taxes. Individual owners, unless they are accountants or have a tax-related background, usually are not as similarly versed about the TAT or the State's tax laws. Out of 50 states, we are only one of three that are excise tax-based.

Thank you for the opportunity to submit comments.

LATE



HAWAII TOURISM
AUTHORITY

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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. 2078, H.D.2, S.D.1
Relating to Taxation

Senate Committee on Commerce and Consumer Protection
Friday, March 30, 2012
9:30 a.m.
Conference Room 229

The Hawai'i Tourism Authority (HTA) supports the intent of H.B. 2078, H.D.2, S.D.1, which would require:

- A nonresident owner, who operates a transient accommodation in the nonresident owner's private residence, to employ a licensed real estate broker or salesperson;
- A nonresident owner who operates a transient accommodation in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator;
- Information about owners who are leasing their property as a transient accommodation to be provided to the Department of Taxation;
- The counties to provide the Department of Taxation with information about every transient accommodations permitted by the county;
- The Department of Taxation to issue a registration identification number to each nonresident owner leasing a transient accommodation.

H.B. 2078, H.D.2, S.D.1, proposes to nonresident owners that operate a transient accommodation in the nonresident owner's private residence to comply with general excise tax and transient accommodations tax (TAT) laws.

HTA supports the requirement that all nonresident owners provide the name and phone number of a local contact prominently posted in the transient accommodation, which is important when there is an emergency. HTA also supports any effort that will improve compliance with the provisions of the TAT law, but defers to DCCA and the Department of Taxation relating to the implementation of the provisions of the bill.

Mahalo for the opportunity to offer these comments.

LATE TESTIMONY IN OPPOSITION

Please excuse the length of this testimony. It very important to us and many others and will greatly negatively alter our lives forever, if this bill passes.

As owners of a vacation rental property in Waikoloa Beach Resort on the Big Island, we OPPOSE HB2078 HD2 SD1 . It would be disastrous for owner/self-managers, the Hawaii real estate market and Hawaii taxes. This bill seeks to bring more money into Hawaii. It will not. It makes the *following erroneous assumptions*:

- Owners who are paying taxes will continue with short term rentals, instead of looking for long term tenants, not renting them at all, or not reporting rents - going “underground”.
- The same amount of rents will be generated by the professional managers as owners.
- The current owners will stay solvent while they pay the extra fees to managers.
- Owners will not sell their properties to buyers remove them from the short-term rental market.
- Owners with illegal units due to zoning who pay taxes or do not pay tax can legally comply with the law and pay taxes.

This is why these assumptions are erroneous.

Like many self-managing owners, HB2078 HD2 SD1 would be an extreme financial hardship that would force us to sell our beloved property we intended to use for income in our old age and a retirement getaway. By renting our unit ourselves, our occupancy averaged 84% the past four years with rental rates the same as property managers charge. We scramble to get bookings by posting on many websites, contacting past guests and networking. We call inquires immediately, send many emails, and make deals. We give an excellent level of care. We have 133 positive reviews because we focus all our aloha spirit on only one rental. Professional managers do not have time or advertising budget to push to that level for each competing owner. As one management co. admits in testimony to CPN, owners go to vrbo and list their properties to “boost occupancy”. Yes, we need to break even; we are not wealthy. One management company told me that even with my own track record of 84% and my repeat bookings they could not even guarantee me 50% occupancy. Here they book under 50% and charge 25-50% of the rents. With 2011 bookings, our negative cash flow was barely manageable, about \$5000. If we had a property manager with 50% occupancy and fees of 25%, in 2011 we would have had an unsustainable negative cash flow of \$30,200 and Hawaii would have made \$2352 less in taxes!

This new version of the bill would be even worse for us as, our complex became a condominium hotel AFTER WE BOUGHT IT. The condotel operator, The Aston, is the most ineffective and expensive of any I have checked into. They charge up to 50% in fees and maintain much less than 40% occupancy – in years we have over 80%! They even charge owners to stay in their own units. They also require owners to purchase their generic package of cheap minimal amenities for \$1500. We didn’t want to go with them because we didn’t want to dumb down our special look. That was before I heard from other owners how they had to pay the Aston some months instead of getting a check. This would create a monopoly.

Many vacation rental owners bought when values and vacation rents were higher. Most units built in the last ten years are worth less than the owners paid new. In 2009 we sold one of our two units at a \$250,000 loss, because we no longer came close to breaking even on it. Our remaining unit beautifully furnished with original artwork is worth \$160,000 less than we paid unfurnished. If this overly controlling law passes, I expect it will depreciate more overnight. We would never have bought Hawaii property if this had been law. In our resort many mortgages are under water. There have been many foreclosures and short sales. There will be many more if this bill passes, which will drive market values down further, taking Hawaii property taxes with it. Then in a depressed market many sales are to cash buyers as affordable second homes who do not need to rent them, investors for long-term rentals and to buyers for permanent homes. Much less tax revenue would be generated and fewer visitors would come to the Big Island.

HB2078 HD2 SD1 assumes those who are illegal would comply. We feel that those who are currently willing to be illegal, would stay illegal and many more would be forced to go "underground" because professional management cannot legally rent illegal units.

HB2078 HD2 SD1 is unnecessary. Our guests pay with credit cards as do the majority of the rentals managed out of state. Merchant credit card companies track and will report transactions on a 1099 this year. This promotes compliance with tax laws without further compliance cost to Hawaii. There are tax cheats on every level. The Federal government does not force everyone who is self-employed to have their finances managed by an accountant, so that they can insure compliance. They use 1099's and spot check with audits, backed up by penalties, such as Hawaii has in place.

Please do not force us out of the rental business. We don't want to sell our beautiful villa, especially while the values are so low, or give up managing control. We want to screen our own guests. We have spend hundreds of thousands of dollars and thousands of hours to create our unique, high quality vacation rental, our home away from home. Our professional, informative website and rental business is a cut above the generic rental managed by a third party. One of our extras is a \$2500/year golf membership, so our guests play for \$50-75. A typical guestbook entry says, "Everything is first-rate, as promised! All the little touches were really appreciated from boogie boards & beach gear to all the books, videos & wireless DSL. It feels like we've been welcomed into a friend's very nice home for the week." If a third party managed our rental, there would be no incentive to make it special, because they just pass out the guests who respond to their website.

We pay our taxes and so do most others, according to the tax department's own audit. Since we bought and registered our business properties with Hawaii in 2003 and 2004, we have collected and paid to Hawaii \$37,458 in GE and TA tax. Like many others, our revenues to the state would go DOWN if HB2078 HD2 SD1 passed. With our 84% occupancy, we bring more guests to Hawaii who spend many tourist dollars and taxes.

HB2078 HD2 SD1 is not the answer to Hawaii's financial problems. We do not have the deep pockets to support property managers while staying solvent. Please look past the surface into the ramifications of this bill and oppose it.

Kat and Derry Ryan
Owners in Waikoloa Beach Resort
www.HawaiiResortRentals.com

I do not believe all problematic ramifications to [HB 2078, HD2, SD1](#) have been addressed from the testimony I read. If nothing else, the decision on this needs to be postponed until more study has been done.

Here are some suggested amendments:

I suggest removing language regarding condominium hotels. This creates a monopoly for what has been the least effective property management company. We did not even consider purchasing a property where management was by the on-site company was mandated. This would instantly devalue our property – even more than those who have a choice.

1. Exception for grand-fathered-in self-managed owners who are currently registered and paying GE and TA tax.
2. Exemption for real estate agents from other states who only manage their own units.
3. Illegal units would be granted a 6 month amnesty with no penalty payment, to bring their units current with back taxes owed, to register and continue paying taxes.
4. Units must post the registration number on vacation rental sites. Vacation rental sites must collect those registration numbers or the owners cannot post. It is the responsibility of the websites to match up addresses with registration numbers. Websites would be required to warn tourists on their Hawaii pages that all Hawaii rentals require registration numbers. The registration numbers could be posted online by the Hawaii government department so that visitors and rental sites could easily check for validation. This would be very little cost to Hawaii, just spot checking the top websites for compliance. (I understand this may relate to another pending bill).

There are other more workable solutions without this drastic pending law. Many of us are barely hanging on and do not have the deep pockets Hawaii needs. Many of us are doing a fine job and so far we have paid taxes \$37,458 in GE and TA tax. For many of us it is an economic necessity to manage our own units. Please work with us on this. It distresses me to think that our precious villa we have half paid-off will no longer be sustainable for us. We will have to sell at a huge loss our jewel that was for our retirement.

Mahalo,

Kat & Derry Ryan, owners
69-555 Waikoloa Beach Dr. #601
Waikoloa, HI 96738
415-271-4994

I oppose these bills!!!!
Thank You ,
Thomas W Schmitt

Testifier position: Oppose

Testifier will be present: No
Submitted by: Mark C Driediger
Organization: Individual
E-mail: driedigers@gmail.com
Submitted on: 3/29/2012

Comments:
To whom it may concern

As a vacation property owner on the Big Island I am very concerned about the impact of bill 2078. The primary use of our property is personal while several family members may use it a week or two per year the property largely sits empty. Having watched over the past four years the value of real estate on the big island collapse by close to 40%, I can only imagine what this bill will do to existing soft prices. A friend of mine is looking to buy on the island, but with the potential bill perhaps being passed he could easily look to other sun destination in the US that do not strong arm people into using vacation operators to do all of their billing and charging as high as 40% for this service.

In the interest of stabilizing property prices I would suggest that this bill is the wrong way to proceed, I am already paying triple the price for property tax as I am a non resident and I think that this is very high again compared to other sun destinations, please do not take steps to making owning a home in the Hawaiian islands yet more difficult.

sincerely,

Mark Driediger,CFP
Assante Financial Management
#101 33386 South Fraser Way
Abbotsford, B.C. V2S 2B5
phone 604-859-4890
fax 604-852-0503
mdriediger@assante.com

Testifier position: Oppose
Testifier will be present: No
Submitted by: Anna Stone
Organization: Individual
E-mail: JesusisLordus@yahoo.com
Submitted on: 3/29/2012

Comments:
Why should real estate people manage condos?
That is really not smart. Every owner I know does an excellent job renting and keeping up their condos. The expence will hurt travelers to Hawaii. It is your decision. Kill the travelers to the island or leave the laws alone.
Please understand the impact. Anna Stone

Testifier position: Oppose

Testifier will be present: No
Submitted by: Ligia Martinez
Organization: Individual
E-mail: Ligia367@gmail.com
Submitted on: 3/29/2012

Comments:
Oppose

Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas Martinez
Organization: Individual
E-mail: Mauiy@me.com
Submitted on: 3/29/2012

Comments:
Strongly oppose

Testifier position: Oppose
Testifier will be present: No
Submitted by: Ms. M Snell
Organization: Individual
E-mail: 100percentkonacoffee@gmail.com
Submitted on: 3/29/2012

Comments:
I support transient accomodation tax and GE tax.
Oppose inserting real estate managers into my business of vacation rentals. I'm a widow and need the income to maintain my coffee farm.
I oppose HB 2078. mahalo

WE NEED THIS SERVICE. WHEN MY FAMILY OF FOUR AND A DOG TRAVEL INTER ISLAND WE USE THIS SERVICE ALOT. WE cant afford the hilton to extended stay. Will this reduculos bill.I should have the right to choose where I stay when we are away from home. I lo ve VBRO it dealt takes the work and stress out of the process. we have stayed in theses in a combination of 6 years. I will not use a hotel. A little home way from home is what we prefer

Christina and Hector Herrera
And family

I have just returned from a two week trip to Hawaii using a VRBO (rental handled directly with the owner) and a second rental which was managed by an on sight Property Management Company. There was no comparison in the quality of management and attention we received - the Property Manager rental treated us as if we were yet another bothersome tourist from whom to get a fee, the Individual Self Managed Owner treated us with attention, resolved the minor problem which we had and provided us with a much better quality property at a more reasonable expense. If you wish to deter future tourism then by all means continue with your bill to require that all rentals be handled by Property Managers.

This law is just another excuse to target non-residents by seeing that they pay more. I think your tourism taxes are already enough! Please don't let the Realtors and Property Managers gouge us further. If an individual decides to use a property manager that is fine, but my personal experience was that this damages rather than enhances the tourism experience. If you want to lose tourists have at it!

Karen Clark
Dubois, WY

My husband and I have been renting on Maui--Directly from an Owner, Don Brattin--- for more than 15years. We have THE BEST personal attention and service from dealing Directly with an owner. I would CERTAINLY NOT travel to Maui if it weren't for this rental situation.

Thank you for NOT passing this bill.
Anne H. Higgins

Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathy Doran
Organization: Individual
E-mail: forkona@sonic.net
Submitted on: 3/29/2012

Comments:

Dear Representatives,

My name is Kathy Doran. I have owned and rented property on the Big Island since 1992. I have always paid both my general excise and my transient accommodation taxes. My hope had been to retire from teaching on the mainland and move to Hawaii. When the real estate market fell apart in 2008, I was left with a home that I cannot sell in California and a home that is underwater in Hawaii. I have mortgaged my home, have been borrowing from my retirement, and have been renting the house in Hawaii in order to keep it. I cannot afford to have agents doing the renting for me, unless of course, they plan to do it for free. This bill would finish me off. You will have one more home on the Big Island in foreclosure. This bill will also help to kill tourism which is just starting to rebound after the tsunami last year, when many people were afraid to come to Hawaii. Rentals like mine provide space for families to come together for vacations, reunions, weddings, etc. This bill would also encourage more people to avoid paying taxes. Many people would stop registering their property as a rental thus avoiding the government altogether. I know you probably have the best intentions for the state of Hawaii in mind when you think about passing this bill. However, in my scenario, you would actually be hurting the state, fewer taxes would be paid, fewer tourists would be able to come, and more people would try to fly under the radar, the safest way to avoid taxes completely. For my sake and many others like me and for the state of Hawaii please vote NO on HB2078.

P.S. I have one more thing to add. I know that you may think that by having licensed agents handle this you would have fewer people cheating. I don't cheat. I am a teacher. I believe in paying my taxes so we can have schools, police and fire services, and parks to name a few of the services government provides. I

had a management group with licensed agents handling my rental several years ago. I began renting my property myself when I found out my agents were under reporting my rentals. I told a neighbor I was having trouble paying my mortgage since I so few rentals. She told me my place was rented all the time. I had her keep her eyes open and make a note of how often I had people there. My management company was reporting to me and to the government only a few days of rentals in each month, even when it was rented most of the month. I found out the hard way that having a license does not always guarantee honesty. Please vote NO on HB2078 Thank you.

Consumer Protection Committee:

I am writing to express my opposition to HB2078 HD2, SD1 Amended which would require all property owner to use either a property manager or realtor in the renting of their property. I visit Hawaii regularly and have dealt directly with property owners when renting housing each time I have visited. I have found that property owners are very involved and concerned about both the condition of their property and the quality of the renters to whom they rent. Property owners tends to be detail oriented and responsive to their tenants needs or any problems that arise.

Ensuring that property owners pay appropriate taxes is, of course, reasonable. However, forcing property owners to introduce an unnecessary middle-person is very unreasonable and will only lead to increased prices for visitors to Hawaii. Renting directly from property owners is a way to make Hawaii just a little more affordable and to increase the quality of a visitor's experience. I believe that forcing property owners to use property managers or real estate agents is an unfair obtrusion of government and will only benefit property managers and real estate agents. This amendment will have a negative impact on tourism and on the real estate market.

Thank you for the opportunity to provide testimony on this bill.

Sincerely,

Todd Wiggins
1015 Piedmont Ave B3
Atlanta, GA 30309

Testifier position: Oppose
Testifier will be present: No
Submitted by: Susan
Organization: Individual
E-mail: srmcintyre@comcast.net
Submitted on: 3/29/2012

Comments:

I oppose this bill strenuously. It seems unamerican, stripping home owners and tax payers of their property rights. I have paid taxes and the transient accommodation taxes, and I have the right to manage my own property. Most Real

Estate agents charge high prices and do not have the training to manage rental property in a cost effective and quality way. I do not want to work with a middleman.

I strongly urge you to vote this down.

Susan McIntyre
VRBO rental owner - North Kohala, Hawaii

I do not believe that this bill is in the best interest of consumers and in my opinion it will increase the cost, without any benefits, for people like my self that like to vacation in Hawaii.

I have no issues working with the individual owners, and in fact the only issues that I have ever had are when I originally worked with property managers.

Larry R. Schlehuber
727 Eleanor Ct SE
Cedar Rapids, IA 52403

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

As a frequent traveler to Hawaii I am in opposition to the new bill which would force me to deal with a management company instead of the owner of the accommodations that I rent. It is precisely because I am able to speak to an owner directly that makes me most comfortable in booking my stay. It is a personal relationship, one that would be severely diminished by imposing a middleman. This personal touch is the main reason I choose to stay in smaller accommodations and I am really puzzled by the intent of this legislation.

Thank you for your time,

Gordon Hildebrand
18 Golf
Pointe Claire
Quebec
Canada

Testifier position: Oppose
Testifier will be present: No
Submitted by: John Russell
Organization: Individual
E-mail: john.russell@ubs.com
Submitted on: 3/29/2012

Comments:

I am completely against this proposal. I own a property on Maui that I rent out and have dutifully paid already high taxes. In my opinion, this bill is adding an unnecessary middle man and will only cause those who are not paying taxes to

go further "underground" and will penalize those of us who have been paying taxes all along and providing the service to guests that only an owner can provide. I understand why this is attractive to legislatures as it will add jobs and tax revenues as a result of those jobs. On the other hand when I look at my investment in a Maui condo which was purchased a little over a year ago my return on investment is about 3-4% per year. This is already a questionable investment from the standpoint of return even when I am handling all bookings, guest communications..... If an additional layer/cost is added to the mix I can only assume that the right thing to do is sell the property as I can earn a better return with much less headache elsewhere. These types of regulations / taxes are going to kill the real estate market in Maui.

We are very upset about this proposed legislation since many of our friends who own vacation properties will no longer be able to afford to keep their condos. Vacationers depend on being able to work with the owner directly for many reasons. Why does Hawaii have to be the only state in the U.S that wants to monopolize this industry? If this monopoly was so good, why don't other states have the same tactic? Our personal experience has been that when we first bought our condo, we tried 5 different rental agencies. They brought us only 25% occupancy. They were dishonest and let local people sleep and party in our condo. They overcharged us continually for repair work (\$125 to fix one screw in the bathroom). We then decided to do it ourselves since we required more income to be able to hold on to our vacation property. We were then profitable and filled our condo 85%. That does not mean we became rich from this. No, we were just needing to maintain a level that we could pay our bills. **WE ALWAYS PAID ALL OUR TAXES!!** It is an insult to us to think the problem lies with all honest owners. This is not an isolated story but all my friends have found similar issues. We cannot afford to maintain a condo if this bill is passed. You will lose many owners and cause the value of the real estate to plummet. You will lose vacationers since it is clear they want to rent from owner. It would be a **LOSE-LOSE** for the State of Hawaii. With the market so down right now, this is absolutely the **WRONG** time to be entertain this.

Also SB-2089 is illegal/unconstitutional. See attached the law firm's letter to faxes and testimony
* HB 1707 has already been defeated in the House because of its illegality. Please follow suit with SB-2089

* SB-2809 will cost Hawaii tens of millions of dollars in lost TA/GE taxes

* SB-2809 will drive small efficient successful entrepreneurs out of business and result in loyal staff to lose their jobs

* Experience shows that monopolistic rental firms result in less rentals overall and tend to ignore single rentals

* This will result in a large number of single rental business failures the owners of which will have no recourse but to sell

* As a result a large number of support staff will find themselves without work and unable to break into the closed monopoly work force

- * Large scale selling into the currently weak market will stop the tentative recovery and depress values greatly
- * Many of the currently successful renters will find themselves underwater, incurring huge monthly losses.
- * Foreclosures will predominate and many retirees such as myself will find themselves ruined with little hope of recovery.
- * The impact of SB-2089 will be sudden with immediate political fallout as the rental monopolies permanently destroy the little guys and the fragile economy.

Aloha Chairman and Members of the Committee:

We strongly oppose HB 2078, HD2, SD1 , Amended. I am a real estate agent on the Island of Oahu and member of the Hawaii Association of Realtors (HAR) and the Honolulu Board of Realtors. My husband and I own two hotel condos on the Island of Kauai. While we support paying our taxes, we are opposed to inserting property managers, hotel operators or realtors into the equation. The law is unconstitutional as it targets non-residents. I live on Oahu but would be considered a non-resident even though I live in the same state. As a licensed real estate agent, I am perfectly qualified to manage my own unit.

Submitted under the guise of consumer protection, it is actually another attempt to punish the many for the actions of a few who may not do their taxes properly. The premise that it protects the owner by having a third-party manage their condominium is, in my experience, patently false. In fact, we no longer allow the "well known, large" hotel operator manage my unit because we caught them renting out our unit without our permission and pocketing the money. We can supply the police report if required. The hotel operator prior to that one, falsified tax records to lessen their tax and increase mine. My husband has a degree in accounting and had to personally correct the error and submit corrected 1099 tax statements to the IRS. The hotel operator then declared bankruptcy and left with a lot of owner money including several months' rental income. When property owners turn over their business to a third-party, control is lost -- we do not know who is in the unit and have blind faith as how much income is actually collected and if our taxes are ultimately paid.

This bill will force me and many other hotel condo owners into bankruptcies or short sales by forcing us to hire the worst hotel managers, large hotel

operators. At the Kauai Beach Resort, hotel management has succeeded in bringing down property values and forcing owners into foreclosure. The hotel operator charges approximately 75% of the rental income for management fees and expenses and they have been responsible for raising maintenance fees from \$450/month to now almost a \$1000/month. This with receiving almost no rental income from the hotel operator has driven most of the individual owners into short sales. As a result, property values have significantly declined. We paid \$335,000 in 2005, and now the tax records value our condo for \$35,000; almost a 10th of what it was worth.

In order to keep our property and save us from bankruptcy, we decided to rent out our property ourselves through the VRBO website. We have been doing this since 2009 with great success. We have an island representative and we pay our own GET/TAT taxes that are collected from our guests every month.

If we are no longer allowed to rent out our own unit, it will have a negative impact on our financial capabilities to keep our unit out of foreclosure or short-sale.

Marybeth A. Purvis (RA)
2156A Aumakua St.
Pearl City, HI 96782
808-349-3321

Aloha,

We strongly oppose this bill. We support paying tax - but are opposed to inserting property managers or realtors into the equation. We have had very bad experiences with corrupt rental agents that overcharge, have locals stay in the condo without us knowing about it, bring in very unsavory people to our condos, are dishonest!!

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

Exemption needs to be spelled out and explained fully in any proposed legislation. How will this be monitored?

Tourism is coming back, this could have devastating effect on it. Rates will no doubt go up and tourists will go elsewhere.

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. Potential buyers will not see that it is feasible to purchase property since they will lose money each month.

Property managers are the only ones to benefit from this law, everyone else loses! There are numerous other ways to resolve the tax issues. Enforcement of what is there and adding legislation directly to addressing taxes (See testimony regarding state of Florida)

Testifier position: Oppose
Testifier will be present: No
Submitted by: Paul Shields
Organization: Sunshine & Rainbows L.L.C.
E-mail: paul@SunshineRainbows.com
Submitted on: 3/29/2012

Comments:

This is the same stuff you guys have been trying to push through the legislature before, you just change the numbers, gosh I am really fooled. I appreciate that the Realestate people and the property manager people contribute to your respective campaigns, and who knows maybe you get a free get away out of them once in a while, but if this measure passes and I can't afford to stay in business or I choose not to because someone else is telling me what I can or can not do, I WILL make sure that every newspaper in the State Knows who voted for or against these overbearing rules that put me out of business. Then no matter how much mmoney your Realestate or Property manager people give you, you will not be able to convince the people that I can no longer employ and who are now out of work to vote for you. We in ROBAA will find candidates who support us and will contribute heavily to their campaigns to get you out of office and get these laws repealed. Start thinking about the long term consiquenses of what the heck you are doing.

Testifier position: Oppose
Testifier will be present: No
Submitted by: Elizabeth and William Hallding
Organization: Individual
E-mail: hallding@telus.net
Submitted on: 3/29/2012

Comments:

FYI ... The following is what we submitted as
HB 2078
AS OFF ISLAND VACATION RENTAL OWNERS
WE PAY OUR GENERAL EXCISE TAX , TRANSIENT ACCOMODATION TAX AND PROPERTY TAXES ON
A SEMI-ANNUAL BASIS.
WE RUN OUR BUSINESS RESPECTING WHAT IS CURRENTLY LEGISLATED AND HAVE ALL
DOCUMENTATION TO VALIDATE.
PLEASE DO NOT CLOSE THE DOORS ON THOSE OF US WHO ABIDE BY THE LAW AND ARE GOOD
RESPONSIBLE TAXPAYERS.

JANE AND RICK HALLDING
KIHEI ALII KAI

I want to keep renting from the person that owns the condo...not a rental agent. Please do not support this bill. Thank you! Cathleen Pachthofer

Aloha,

We strongly oppose this bill. We support paying tax – but are opposed to inserting property managers or realtors into the equation. We have had very bad experiences with corrupt rental agents that overcharge, have locals stay in the condo without us knowing about it, bring in very unsavory people to our condos, are dishonest!!

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

Exemption needs to be spelled out and explained fully in any proposed legislation. How will this be monitored?

Tourism is coming back, this could have devastating effect on it. Rates will no doubt go up and tourists will go elsewhere.

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. Potential buyers will not see that it is feasible to purchase property since they will lose money each month.

Property managers are the only ones to benefit from this law, everyone else loses! There are numerous other ways to resolve the tax issues. Enforcement of what is there and adding legislation directly to addressing taxes (See testimony regarding state of Florida)

Kathie West

Testifier position: Oppose

Testifier will be present: No

Submitted by: Daniel Benz

Organization: Individual

E-mail: 1337z33@gmail.com

Submitted on: 3/29/2012

Comments:

I am very opposed to this bill

To the Legislators of the state of Hawaii,

I am in complete opposition to HB1706. While some of the intent of these bills that have been recently working their way to a vote, the means and ultimate outcome may be disastrous to property values, the tourism industry, and ultimately to state and local revenues. All this downside to the benefit of a small segment of the industry that has been unable to adapt to the changing landscape of the tourism market that has been brought upon by advances in technology.

I am in full support of all taxes been paid by all property owners and managers.

There are already laws in place that require this and by and large are followed.

The problem is the insertion of required property managers or realtors into the cash stream. They effectively become middle men, reducing the income and subsequently the property value to owners and or increase the costs to tourists. This additional burden can only result in reduced days of rentals which is reduced state and local income and reduced property values which again impacts

the state as a whole. The only beneficiary is the middle men, who are trying to regain lost income because the market has changed.

Additionally, I believe this law to be potentially unconstitutional as it targets non-residents unfairly.

While there has been some discussion of exemptions, these have never been clearly defined or explained and leave the legislation open to later manipulation at the detriment to all effected.

With property values still without a solid bottom under them this is not time to create legislation that will harm that recovery. When non-resident owners are hit with the multiple financial burdens that this law creates, many will be unable to continue ownership and we will see property values drop, further burdening local owners, the local economy, state revenues as well as the already impacted non-resident owners. Furthermore, when forced to hire local managers, self managing owners will now not be able to claim active participation in the investment, thereby creating another unintended financial impact that will further depress prices and raise costs to incoming tourists

Tourism is just coming back, this could have devastating effect on it. It should be clear that when another layer of business taking money about of a stream, it has financial impacts. In this case the owner incurs more costs and these either drive down the value of the investment, the property value, or the costs are forwarded on to the consumer. With the rise in fuel prices already threatening to have large impacts on the Hawaii tourism industry it is not possible to add another artificial cost without an impact. This will have to result in reduced tourist days and hat means reduced local and state revenues.

Ultimately this is a bad law. Property managers are the only ones to benefit from this law, everyone else loses!

If payment of taxes are he the issue, then laws are already in place and this is redundant, and financially hurtful to all involved except a small group. If this is a case of consumer protection, then the simple requirement of having a local emergency contact would ease this concern. Full local management company or real estate agents only serve to hurt the consumer with additional costs.

Please vote against HB1706

Randy Russom
354 Front St
Grover Beach, CA

To whom it may concern,

I would like to express my opposition to Bill HB2078 HD2, SD1. I see no need to add such complexity to a simple transaction. I have rented Maui condos many times from different owners and have had no problems. If I need help I can get it quicker from the owner by calling his cell phone than I will ever get from a property manager who is understaffed and puts my problem in line behind a dozen other calls. You need to fix any problems with a complaint line to a 1-800 number and

leave the honest owners alone. It would be cheaper to address the problem by dealing with the lazy owners rather than passing legislation to line the pockets of the property managers.

Thank you,

Frank Buttaccio

To the Legislators of the state of Hawaii,

I am in complete opposition to HB2078 HD2, SD1 Amended. While some of the intent of these bills that have been recently working their way to a vote, the means and ultimate outcome may be disastrous to property values, the tourism industry, and ultimately to state and local revenues. All this downside to the benefit of a small segment of the industry that has been unable to adapt to the changing landscape of the tourism market that has been brought upon by advances in technology.

I am in full support of all taxes been paid by all property owners and managers. There are already laws in place that require this and by and large are followed. The problem is the insertion of required property managers or realtors into the cash stream. They effectively become middle men, reducing the income and subsequently the property value to owners and or increase the costs to tourists. This additional burden can only result in reduced days of rentals which is reduced state and local income and reduced property values which again impacts the state as a whole. The only beneficiary is the middle men, who are trying to regain lost income because the market has changed.

Additionally, I believe this law to be potentially unconstitutional as it targets non-residents unfairly. While there has been some discussion of exemptions, these have never been clearly defined or explained and leave the legislation open to later manipulation at the detriment to all effected.

With property values still without a solid bottom under them this is not time to create legislation that will harm that recovery. When non-resident owners are hit with the multiple financial burdens that this law creates, many will be unable to continue ownership and we will see property values drop, further burdening local owners, the local economy, state revenues as well as the already impacted non-resident owners. Furthermore, when forced to hire local managers, self managing owners will now not be able to claim active participation in the investment, thereby creating another unintended financial impact that will further depress prices and raise costs to incoming tourists

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Ultimately this is a bad law. Property managers are the only ones to benefit from this law, everyone

else loses!

If payment of taxes are the issue, then laws are already in place and this is redundant, and financially hurtful to all involved except a small group. If this is a case of consumer protection, then the simple requirement of having a local emergency contact would ease this concern. Full local management company or real estate agents only serve to hurt the consumer with additional costs.

Please vote against HB2078 HD2, SD1 Amended and HB1706

Randy Russom
354 Front St
Grover Beach, CA

Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael Newman
Organization: Individual
E-mail: newmiefish@hotmail.com
Submitted on: 3/29/2012

Comments:
I OPPOSE HB 2078

You can't treat homeowners differently depending on how much time they spend on Island

It has come to my attention of legislation that is pending in the Senate for Approval. I am extremely opposed to putting such an imposition on those wanting to vacation in Hawaii. I went there on vacation 2 years ago Vacation Rental by Owner, it was a wonderful experience and one I would soon like to repeat, but if you pass this piece of legislation it will not only raise the rates to cover those Property Manager/Real Estate fees, but also the burden those wanting to vacation in your beautiful state. It seems to be that things are costly enough in the USA without showing favoritism to a group that just want to earn more and give less service. I would rather deal personally with an owner than an entity, and am much more satisfied with the results. "Give people the choice", or you may lose much more than gain. Again I adamantly opposed this Bill~

Linda G. Bertalotto
Construction Design
Joplin, MO 64804

Bill: HB2078 HD2, SD1 Amended

I, Jaclyn Humphrey of Washington State, adamantly oppose this bill. I want to continue working directly with owners through venues such as VRBO.

Kindest regards,
Jaclyn

Testifier position: Oppose
Testifier will be present: No
Submitted by: denise green
Organization: Individual
E-mail: denisewgreen@aol.com
Submitted on: 3/29/2012

Comments:

Testifier position: Oppose
Testifier will be present: No
Submitted by: Meera Kohler
Organization: Individual
E-mail: mkohler@avec.org
Submitted on: 3/29/2012

Comments:

To: Senate Committee on Consumer Protection

Re: Testimony on HB 2078 and HB 1706

Honorable Chair and Committee Members,

My name is Meera Kohler. I am a resident of Alaska and a very frequent visitor to the great state of Hawaii. It is with considerable dismay that I offer the following testimony:

A few years ago, a friend and I refinanced our Alaskan homes and used extracted equity to purchase a condominium in Ma'alaea, Maui. We have invested in the Hawaiian economy and we took an unoccupied, virtually derelict condominium, invested more than \$50,000 in its renovation and refurbishment and have made it into a wonderful asset for the community. We use it ourselves, as do many of our friends and family. We also rent it through VRBO.com and have made many more friends through that medium.

We are registered with business licenses with the State of Hawaii and we collect Hawaii taxes from everyone to whom we rent it - even friends and family. Our returns are filed timely and taxes are remitted timely to the state. We are in complete compliance with the law.

This proposed bill attempts to cure a problem of scofflaws who do not comply with the rules. This begs the question - how would you propose to identify these people if they are currently flying under the radar? Instead you will impose draconian requirements on non-resident owners that will only enrich the realtors and make no difference to the taxes flowing into the treasury.

Our little condo business is tiny. The gross annual receipts cover property, GET and transient taxes, housekeeping, association dues and lease fees, utilities, on-island agent and upkeep and maintenance. There is literally nothing left over. Were we to rely on the income to pay for a mortgage, we would be unable to do so. If we have to now take 25 - 40% off the top to pay for on-island manager

fees, we will have no choice but to sell the property and return to renting other people's homes for our Hawaiian vacations.

These bills are a terrible idea! It changes the rules under which I invested in Hawaii and it does nothing to cure the apparent proliferation of illegal home and condo rentals that I hear about. I firmly believe that we non-resident owners are more compliant than many resident owners.

Please do not pass these bills out of your committee!

Sincerely,

Meera Kohler
Non-resident Owner and Frequent Visitor

Testifier position: Oppose
Testifier will be present: No
Submitted by: craig dunn
Organization: Individual
E-mail: craigwdunn@sbcglobal.net
Submitted on: 3/29/2012

Comments:

I am opposed to HB2078.

I am a California resident who has owned a vacation rental on Kauai since 2000 and have always paid TA and GE taxes on my rentals.

I feel mandating the use of a licensed RE agent as a local property manager will mean a reduction of service to my customers (the RE agents that currently choose to participate in this type of business are understaffed and stretched too thin) and that the fees charged by these agents will be predatory. In this current economy, any substantial increase in expenses will necessitate me having to put my property on an already depressed market. Many other vacation rental property owners are in the same situation. Passage of HB2078 will have an immediate and long term negative affect on the already depressed Hawaiian economy. Additional expenses to vacation rental property owners equate to less vacation rentals, less Hawaiian tourists, less local business revenue and less taxes collected. I oppose passage of HB2078.

Dear State Congress & Senate member,

I know you have a Bill that is coming up on this Friday March 30th at 9 am Bill HB2078 HD2, SD1 which is very similar to Bill (House Bill) HB1706 that was defeated a few weeks ago.

I've used the Vacation Rental by Owner twice. I stayed in Maui twice as recently as last week. If Bill **HB2078 HD2, SD1 is put into law** it will change the cost of renting a Condo in Hawaii. In using a Realtor based on the Islands it only raises the cost of staying in Hawaii. In dealing directly with owner it saves time, money and issues are resolved the same day.

We arrived in our condo and need a code for a room and was taken care of in less than 10 minutes. I emailed the owner and had a response in 10 minutes.

Based on my bookings with the Vacation Rental by Owner Association I don't see a need for a Island Base Realtor Group Service to help me book a Condo. This service isn't needed from my point of view it just adds cost in renting a condo. This will effect our decisions as a family on where we will spend our holiday's/vacations.

Sincerely,

Paul Beauchamp

Testifier position: Oppose
Testifier will be present: No
Submitted by: James H. Smith
Organization: Individual
E-mail: jhs@grokenberger.com
Submitted on: 3/29/2012

Comments:

Since 1978 my family and I have enjoyed traveling to Hawaii at least four times a year. For the past two years we have been fortunate enough to travel to Hawaii every other month. Over that period of time I have left in Hawaii, exclusive of airfare, well over \$320,000. For the last 10 years we have mostly rented directly from an owner who owns several condominium units at the Whaler in Maui. My records show that we have rented from this owner on over 30 occasions. Notwithstanding the fact that the owner lives over 2500 miles away, we have never experienced a single problem and have always been charged and paid the Transient Accommodation Tax. Having considered purchasing a unit in the Whaler complex, I am very familiar with the owners' operating costs. The imposition of the pending legislation would make it prohibitively expensive for owners to rent their units out as well as prohibitively expensive for individuals to be able to afford the rental rates that would have to be charged. Additionally, the proposed legislation would have a dramatic an adverse impact on real estate prices. The result is that I would no longer travel to Hawaii nor be interested in purchasing real estate in Hawaii. There are too many other affordable options.

If the object of the pending legislation is to pad the pockets of management companies, it is a masterful piece of legislation. If the objective of the pending legislation is to ensure the TAT is paid and collected, certainly the brilliant minds in the Hawaii Legislature can enact legislation that accomplishes the purpose without destroying tourism and real estate values.

Testifier position: Oppose
Testifier will be present: No
Submitted by: Ellen Ernisse
Organization: Individual
E-mail: peaceandaloha@hotmail.com
Submitted on: 3/29/2012

Comments:
Aloha,

Once again, we are writing testimony and request that you vote NO on HB2078, as residents of Maui/Hawaii who rent two condos on VRBO and pay our taxes as over 90% of the individual owners who rent their properties on VRBO or their own personal website do (That is a result of your audit!).

This law is unconstitutional since it attacks non residents only.

An exemption needs to be spelled out and explained fully in proposed legislation.

Tourism is coming back but this could KILL it!

Real estate is coming back but this will have catastrophic effect on it! There will be many foreclosures and owners will be forced to sell, which will flood the market!

Property managers are the ONLY ones to benefit from this law! EVERYONE else loses!

The State of Hawaii is the BIGGEST loser!

Individual owners bring in more guests and keep them coming back to Hawaii every year because we do not overbook, we do not have problems with accounting and billing! It is our own business and we care!

Thank you for voting NO on this bill!

Please do not vote to destroy the individual small business rental industry in Hawaii!

Please vote NO to keep tourism and our real estate industry continuing to GROW!

Mahalo for your time! We KNOW that you will vote NO which is the vote to save HAWAII!

Testifier position: Oppose
Testifier will be present: No
Submitted by: Brad Kreller
Organization: Individual
E-mail: kreller2124@aol.com
Submitted on: 3/29/2012

Comments:

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 and vote no, allowing for further discussion and analysis.

We appreciate that the Amended Bill has included a provision for exemption by obtaining a tax clearance from the Tax Department to be transmitted to the real estate commission. The Bill, however, does not establish what the criteria would be for granting the 'tax clearance or the timeliness of the Tax Department to provide the tax exemption. We fear the Tax Department will be overly burdened with requests causing delays, which would result in noncompliance. There are times when the Tax Department takes up to two months to provide a requested tax identification number, so one can reasonably expect there would be many delays in obtaining a 'tax clearance.' Additionally, we do not know how we would comply with the requirement of Federal Form 990 being transmitted to the Real Estate Commission. Form 990 is for Return of Organization Exempt From Income Tax. The annual requirement of obtaining the tax clearance may prove to be an obstacle to compliance that burdens only nonresident owners.

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 this 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 who 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 SB2089 HD1 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 complaint.

3. The Department does not believe there is substantial non-compliance with tax obligations.

Section (a) Makes requirement of compliance only on nonresident owners (if one does not obtain a tax clearance) that it does not impose on resident owners. Further, in the circumstance of a nonresident owner who owns property in a condominium hotel they shall employ a condominium hotel operator; This means that one subsection of nonresident owner is even further restricted and can ONLY hire a condominium hotel operator and no other. This seems to be unnecessarily limiting to free choice of whom to engage in the service of property management.

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. This further incurs additional costs in advertising (when one must pay by the line) that it does to the resident owner.

We, as nonresident owners, seek to comply with the laws and pay taxes as required. This Bill however, will put many more layers of operational compliance on nonresident owners than it does on resident owners.

The Hawaii's Tourism Authority states in their testimony of 2/2/12 regarding this Bill, "Chapter 237D already provides for penalties for engaging or continuing in the business without registering as required by the law.

Additionally, the Department of Tax on 2/2/12 states the need for increase education.

Again we ask you to vote no or defer the passage of HB2078. We believe that a greater focus of awareness of the laws would bring about increased compliance. We offer the following suggestions:

Educate by Notice: It should contain 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.

Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice. Every property owner receives a property tax bills. The Notice should be enclosed in the 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.

Here are some possible solutions as to how to track down those that aren't paying their GE and TA:

- 1) all vacation rental accommodation owners (VRAO)s must advertise to get renters.
- 2) there are a limited number of ways (VRAO)s can advertise their accommodation.
- 3) 99 % plus of these avenues of advertizing are websites such as VRBO, Flipkey, Homeaway, Craigslist, etc.
- 4) As of Jan 2013 all those offering vacation rentals must post their tax ID/business license number with every ad for accommodation.
- 5) The finance department can employ exception tracking software (ETS) to search all these sites to extract any ad that has no tax ID/Business license posted in the ad.
- 6) These ETS programs can search just like google does millions of listing in no time flat.
- 7) Within seconds the finance department can have a list of every potential tax violator state wide.

Mahalo.

Testifier position: Oppose
Testifier will be present: No
Submitted by: Rod Remington
Organization: Individual
E-mail: rod@mtbakerproducts.com
Submitted on: 3/29/2012

Comments:

As an owner of 3 condos I urge you to vote against HB 2078 HD2 SD1 . It is a sad commentary that a small group can get this far with a bill that undermines our constitutional rights to own and control our own property. This is a greedy attempt to line the pockets of Property and Real Estate Managers and has no truth in their statements. The State of Hawaii would loose not only property taxes on the units as most would sell, but also the taxes that are paid for lodging. They state would also loose on all the moneys spent to entertain the visitors to the islands.

Regards,
Rod Remington
Waikoloa Hawaii
La Conner, WA

Testifier position: Oppose
Testifier will be present: No
Submitted by: Danielle Gall
Organization: RBOAA
E-mail: danielle_gall@homedepot.com
Submitted on: 3/29/2012

Comments:

RE: HB2078 HD2, SD1

Dear Tourism Committee:

I strongly oppose HB2078 and the other 4 related bills. I 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 another layer? 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 the 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 sell 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 wholesales 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 resources to handle supplying information?

Is the much larger issue that is this property legally zoned to rent? If so there is an enforcement issue and not a tax issue.

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

all counties have this information listed on the internet, why add another layer of reporting?

(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;

Is there man power to deal with this? Per the Audit of the DoTax done in 2010 the department 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/TAT number issued in a timely fashion and the booklets to pay the taxes.

(5) 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 3/8/2010. It states that it should take 7 -10 days. It has been over 28 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 in 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.

Danielle Gall

Testifier position: Oppose
Testifier will be present: No
Submitted by: Linda Bornstein
Organization: Individual
E-mail: linda@coastalfantaseas.com
Submitted on: 3/29/2012

Comments:

I am working EXCEEDINGLY hard to rent and maintain our condo properties and have ALWAYS charged my guests the appropriate taxes AND paid them to the state of Hawaii. This measure would force me to utilize a company that likely will take upwards of 30 - 50% of the bookings I secure!!! That is excessive and lines others' pockets who do an ineffective job of managing MY property! They are not interested in maintaining MY property at all! I run a tight ship with attention to detail that CANNOT be matched by a mgmt. co. Many homeowners will surely fall into foreclosure at these rates! That is something you do NOT want to see happen to Hawaii to the levels that it has in my home state of California - it is a recipe for DISASTER that will take years to recover from, if at all! Tourism is essential to the islands and other prospects for regulation must be sought than potentially throwing law-abiding people into foreclosure which is the likely result of this measure. Your decision cannot be shortsighted - the effects will be long-lasting and significantly scar the landscape of beautiful Hawaii. Consider who will purchase those vacant condos in Hawaii. Surely not the island residents! A high unoccupied vacancy rate will have repercussions that will be abysmal! When it is YOUR home that sits adjacent to a vacant home/condo for YEARS you will have wished you had voted against this bill. It is not too late! I urge you to find another alternative than penalizing those of us who follow the letter of the law and are managing our own properties because that is the most cost-effective strategy for us. Mahalo for your time. Linda Bornstein

Testifier position: Oppose
Testifier will be present: No
Submitted by: LINDA TYNES
Organization: Individual
E-mail: tynesl@comcast.net
Submitted on: 3/29/2012

Comments:

1. Stop Realtors and Brokers from riding on the backs of property owners by opposing SB2089 HD2, SD1. Support the state's loyal property tax payers. Keep the property owners in business. Property owners renting out accommodations at lower prices than realtors keep visitors coming to Hawaii. Make a win-win decision by voting to oppose this HB2078 HD2, SD1, Keep people coming, keep private enterprise alive, keep realtors greedy hands out of the pockets of private citizens. Say NO to more regulation which financially benefit a few greedy hangers-on. Say NO to forced regulation---Keep free enterprise alive. Vote NO TO HB2078 HD2, SD1.

To hire a Realtor/Property manager which will ADD to the cost of renting our condos. Realtors and Property managers (demand) we pay them 30% to 50% of our profits.

If this bill passes the Senate. the condo I could rent for say \$250 per night this year will have to rent for \$350 per night in the future in order for the owner to break even.

Many owners will go broke or choose to not rent their condos at all rather than give up 30% - 50% to a Broker.

Owners have mortgages, insurance, dues to the tune of \$700 per month and other costs. If Owners have to pay a Broker another 30% to 50% many of Owners will not make it.

The owners have provide me with better and faster service than I have received from property manager or real estate service.

--

Regards,

Linda

tynesl@comcast.net

[206-363-1994](tel:206-363-1994) HM

[206-915-1883](tel:206-915-1883) CELL

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 SB2089 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”

Dear Legislators,

I am not clear on why you insist on changing the rules for renting our Hawaiian homes. But, I can tell you that passing this bill will cripple the state's economy since it is all about tourism.

I am the owner of 75-6016 Alii Drive Unit 321 (Alii Villas) in Kona and have owned it since 2003. I initially tried using a "management" company to rent it and after a year I had no renters coming in. The company had a bad attitude and had no incentive to help me pay for the unit. I tried long term rentals and that didn't work since the unit was seriously deteriorating. I then started using vrbo and got instant results. I hired someone to keep it clean and invested in new furniture, etc. The place now looks great and some day I wish to retire there as a permanent resident.

Forcing me and my neighbors to use the existing management companies will reduce income if any and raise expenses. People will stop coming to our beautiful Island and the surrounding businesses will suffer not to mention the owners. Vacationers will just go to other places in the world for their vacations. This will set back Hawaii's economy many years.

Owners will try to sell and the properties will drop in value. This will occur at a time when the economy is just starting to come back to Hawaii. Being a very remote location for vacationers, they will inevitably go on vacations closer to their homes. Like the Caribbean or Florida, even Mexico.

I don't see the upside to this attempt to undermine the happiness that the paradise known as Hawaii is bringing to people from all around the world. Please don't let this happen. It will change everything. The only beneficiaries will be the management agencies if you can call them that. We do pay our taxes on rentals and this money will greatly fall off as well.

Please don't pass HB2078 into law!!

Regards,
Christ Constantinou

Dear Legislators,

I oppose HB1706 because of the following:

This bill discriminates between non-resident and residents of the state. This bill will serve to artificially create subgroups, each with different levels of indirect taxation, where no compelling state need has been provided. That need is required to legally support this type of discrimination otherwise, in my opinion, it is unconstitutional.

Relative to any possible ties of the language of HB1706 to collection of taxes, a distinct omission within HB1706 to apply also to residents, and a lack of evidence to support a need to do so, this law unjustly places a higher cost of business on non-residents. Tax Collection efforts should have no lesser focus on remittance levels from one group or another.

The absence of evidence of harm to consumers by one group called resident owners and another group called non-resident owners, the state has not demonstrated a need to exempt resident owners from HB1706. Consumers should receive equal consideration of protection in the rental of vacation rentals regardless of the residency status of the owners.

A requirement of emergency contact information is no more applicable to units that are rented by an owner relative to their off-island or on-island status. It is inappropriate that this information be withheld from a condominium property regime by a resident of Hawaii who operates a vacation rental in that complex

Thank you for the opportunity to provide testimony.

Submitted by: Bart Antista

Testifier position: Oppose
Testifier will be present: No
Submitted by: Julie Zweber
Organization: Individual
E-mail: julie.zweber@cox.net
Submitted on: 3/29/2012

Comments:

I am opposed to SB2078 and all related bills. This measure would not only stifle the already stunted rental business on Maui/HI, it would also require owners who have appropriately rented their units, and paid their taxes, to employ a third party to oversee rental. This will create an unnecessary cost that obviously would be passed to the renter. Maui rentals are suffering due to our ever-

wavering economy, and why, out of the blue, would such a bill be considered, is beyond me. Our government penalizes those who do not pay their taxes, on the individual level, as well as those who act as Merchants. To punish and overcharge the majority for the few (which is the only supporting argument I've heard), is utterly ridiculous. I'm sure those who are in property management or real estate relish the idea of tapping in to a direct owner's right to rent...but this is inappropriate. Personally speaking, my rentals have tripled since I took over direct rental duties, as my clients can now afford the prices I must charge to break even. Not the case when I worked the the LLC attached to NP Resort. This bill should be declined in its entirety. Julie Zweber

Testifier position: Oppose
Testifier will be present: No
Submitted by: Carl T Hu
Organization: Hu Smith LLC
E-mail: carlhu@hufamily.com
Submitted on: 3/29/2012

Comments:

I urge the HI Legislature to not adopt HB2078 since it fails to address the core issue of tax compliance and would instead lead to significant economic harm to the state resulting from lower tax and tourism revenues and property values. As a non-resident TVR property owner who collected and remitted over \$15,000 in GET/TAT to HI last year and several times that much in economic tourism benefits, under HB2078 I would be forced to use a Condo-Hotel operator and pay significantly higher commissions instead of continuing to self manage my property using local property managers and service providers. As a result, my net operating income would shift from being slightly in the black to being tens of thousands of dollars in the red each year. I would have no choice but to sell my TVR, as would potentially tens of thousands of other non-resident TVR owners. This would create a huge glut of properties, many of which will be short sales or foreclosures, during a period that the HI housing market is still recovering from the recession. It must also be noted that these are units which are being taken out of the vacation rental pool and as such are not generating tax revenue and tourism benefits for the state. Property owners who do decide to keep their TVR property will have to raise their rates to pay for the higher property management costs required under HB2078 - facing fewer choices and higher nightly rates as well as sky high airfares, many more tourists will decide to vacation closer to home. This is not a worst case scenario - this is what will actually happen should the HI legislature pass this bill in its current form.

If property owners, tourists, and HI residents are all harmed by this bill, I think it's important for the legislature to carefully consider who actually stands to benefit. It's clear the one group which stands to benefit the most and which has been quite vocal in its support of this bill are large property management and hotel firms which stand to gain a monopoly on property management services and put small property management companies and privately managed property owners out of business. Although the bill's sponsors want to the public to believe that large property management companies are more trustworthy, the fact is the most recent report of the Department of Taxation dated November 2011 shows that 96 percent of the number of cases in litigation right now are with big

firms like Property Management companies, Hotels and Time Share operations while only 3.5 percent are for individual owners. As previously explained, this would have a devastating impact on the TVR industry in HI as tens of thousands of jobs currently supported by the latter are eliminated by large condo-hotel operator managers so they can use their own vendors or employees instead. It is not clear that these large property management firms, many of which are not based in HI, would even use local HI labor or instead out source this work to private temps and contractors. While this will be very profitable change for CHOs since they will be gaining new TVR property owners who are forced to use their services at non-competitive rates, the net effect will be for thousands of other TVR owners to close their business, sell their properties, and leave HI permanently. Owners such as myself will instead choose to invest elsewhere where we can operate profitably and without a state mandated monopoly on property management choices.

I believe it's very important for HI legislators acknowledge the fact that non-resident property owners play a critical role in HI's economy bringing in billions of dollars of taxes and economic benefit and that these owners do have a choice and can choose to do business elsewhere if the state makes it impossible to operate in a profitable manner. As an owner who has responsibly collected and paid all HI taxes, I too am angered and frustrated with tax cheats who fail to comply with existing HI state law. However, this bill only serves to punish honest property owners such as myself and worse yet, threaten to drives us out of business. The fact that this bill only targets non-resident owners is highly problematic since, according to the HI Attorney General's office, it is likely unconstitutional. Also, the bill's sponsors have failed to produce ANY evidence supporting their belief that non-resident owners fail to comply with HI tax laws. In fact, the last statistical audit performed (by the Hawaii Tourism Authority in 2007) says non-residents ARE paying their taxes (the term was "generally in compliance"; which meant a problem does not generally exist).

I agree that increasing tax collection and compliance are important and noble goals. However, this bill fails to accomplish this and instead will result in an unintended dominoe effect driving out and closing down thousands, if not tens of thousands of TVRs from the state which are currently in compliance and generating hundreds of millions of dollars of tax and economic benefits for HI. HI DOT should instead focus on identifying TVR owners who are not in compliance and rigorously enforcing the current laws. They can also take a page from IRS and have a whistleblower program so that tourists, residents, and property owners all have incentives to help identify tax cheats and bring them to justice and compliance. Since DOT has not begun any of these measures, the upside potential is enormous and most importantly, this does not come with the possible disastrous economic consequences of the currently proposed bill.

Mahalo,

Mr. Carl Hu
Hu-Smith LLC
Owner

Testifier position: Support
Testifier will be present: No
Submitted by: Boyd Ready
Organization: Individual
E-mail: boydready@hawaii.rr.com
Submitted on: 3/29/2012

Comments:

This bill will go a long way toward stimulating currently missed tax revenue from the Transient Accommodation Tax and the General Excise Tax from non-resident owners. Currently internet allows transactions effectively unknown and difficult to monitor. Licensed real estate agents and their employees are under obligation by ethics and statute to adhere to State laws and County ordinances, and are aware of what they are. Non-resident owners are often either simply unaware or willfully ignorant of all their obligations. This will not turn an unpermitted into a permitted TVU, instead, it will bring the unpermitted TVU's into the open and allow more effective enforcement so neighborhoods spot zoning into resort uses can be monitored and democratically controlled.

Testifier position: Support
Testifier will be present: No
Submitted by: Mark A. Marchello, R (B)
Organization:
E-mail: markm@whalersrealty.com
Submitted on: 3/29/2012

Comments:

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

One Example: We recently had an owner whose property went into foreclosure cancel our management and switch to RBO self management. He ask that we forward all advance payments and deposits to him immediatly. We refused as our council confirmed that all guests funds must be held in a Hawaii trust account and he must honor the terms of our agreement with these guests. We processed all funds as guests departed. However he continues to take new reservations, what assurance do these guests have that when the bank finally takes possession of this property they will have their advance payments refunded?

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.

Testifier position: Support
Testifier will be present: No
Submitted by: Doreen Martins
Organization: Individual
E-mail: doreenlmartins@gmail.com
Submitted on: 3/29/2012

Comments:

Testifier position: Support
Testifier will be present: No
Submitted by: Sue Maruyama-Strickland
Organization: Garden Island Properties LLC
E-mail: sue@kauaiproperties.com
Submitted on: 3/29/2012

Comments:

Aloha! I am in support of HB 2078. As a small business owner of a property management company on Kauai, we do have visitors calling us unhappy with their accommodations booked through an owner and unsure of what to do. We have also had Front Desk agents of local condo properties calling us when someone attempts to check in only to find that they do not have confirmed reservations and are unsure what to do as the owner lives on the mainland and they are unable to reach them. This only creates a bad image for those of us who live/work on the island and try to do the right thing for our visitors.

Mahalo,
Sue Maruyama-Strickland
Garden Island Properties LLC

Testifier position: Support
Testifier will be present: No
Submitted by: Lisa Downer
Organization: Individual
E-mail: lisa@balihai.com
Submitted on: 3/29/2012

Comments:

March 29, 2012

Testimony in favor of HB 2078

Dear Legislator,

I have owned a property management business in Kona for over thirty years. I would strongly favor the passage of HB 2078 for the following reasons:

In our management business we strive to provide good service to both unit owners and guests. This includes a host of on-island services:

- Coordinating unit maintenance and cleaning.
- We are available to address owner and guest concerns, including after regular business hours.
- We maintain strict accounting for both unit owners and guests.
- We help governmental agencies track accounting data via W-2 and 1099 submittals.

I cannot imagine trying to perform these duties from an off-island location. Our staff is courteous and service oriented and our goal is to provide a positive experience for our island visitors as well as to create income and protect the investment our owners have made in their vacation rental unit.

I also ran an Association Management arm of our business for many years. I witnessed first hand the frustration of guests, other on-site owners and Association employees caused by Owners who managed their units from off-island.

Many businesses have capitalized on the self management web site phenomenon, which facilitates off island management, causing the problem to grow exponentially in recent years. This has affected the many small management businesses in Hawaii that “play by the rules” and has put our industry at a disadvantage. We are based on-island in order to provide professional service to owners and guests, and since we are licensed in the State of Hawaii, we are subject to the rules and oversight relating to the vacation rental business in our State. These rules and guidelines set up by the State for our industry allows the State to track owner revenue and employee payroll reports so that State tax requirements can be easily tracked and addressed.

In summary, I am in favor of passage of HB 2078 because it protects Owners, Guests, and Island Residents and lends to persons meeting their Tax responsibilities in a more transparent manner.

Sincerely,

SteveWilcox PB
President
Property Management Hawaii, Inc.

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

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Tom Hagen
Organization: south Kohala Management
E-mail: tom@southkohala.com
Submitted on: 3/29/2012

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.

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.

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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.

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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.

My name is Patricia Gablehouse **and I am opposed to HB2078.**

My husband and I own two condominiums for which I manage both of them and we pay our State transient taxes in a timely and efficient manner through HotSpot Tax Service, an independent company, for a cost of \$12 a month.

Proposed Legislation should focus on those individuals who do not pay the proper transient taxes to the State of Hawaii and not penalize and place restrictions on those who have invested and comply with Hawaii Tax requirements.

We currently have a resident in Hawaii identified as our point of contact person and she does an excellent job responding to guest's needs. In addition, we have an onsite General Manager who also is available and helps in emergencies.

To my understanding, this legislation targets only non-resident owners and requires them to go through a state approved real-estate company/agent to manage personal units in hopes of collecting additional tax revenues. To comply with this legislation it will cost 20 to 40 percent of our gross annual rental income and create an unfair financial expenditure that may cause me to fall short of meeting monthly mortgage payments, which would eventually force me into foreclosure. We are currently upside down on the value of one condominium but continue to make the payments through rental income in hopes of holding on until the housing market stabilizes and it returns to its original purchase value.

This legislation will only result in rising tourist lodging fees; reduced condominium purchases by out-of-state investors and lower tax collections from those who elect to withdraw units from the transient accommodation market due to costly management fees and over-restrictive legislation. Thus causing a reduction in tourism which in turn would hurt the economy of the Big Island of Hawaii.

With Condominium values dropping and proposed legislation like this, the Hawaiian Dream is turning into the Paradise Nightmare. We are just average Americans trying to hang on to our investment until my husband retires from 40 years with the fire department. Our plan was to do vacation rental in our unit until we can retire here. We have ALWAYS paid our taxes, and have NEVER been late. Why punish the good with the bad?

Again I am **opposing HB2078** and would ask you to vote against the implementation of this legislation.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Francis Leopardi
Organization: Individual
E-mail: leopard509@comcast.net
Submitted on: 3/29/2012

Comments:

Opposing HB2078 HD2, SD1 Amended. As a tourist I oppose this bill. I visit your wonderful state and book my lodging with the condo owners directly. Taxes are paid and I feel the prices are competitive this way. I can spend my tourist dollars continuing to support the local economy restaurants and shopping, and tipping the locals. Having to use a middleman to book I would only help property managers line their pockets. Owners of these rentals pay taxes and employ locals to maintain these investments. I see only middlemen profiting from the passage. If tourists are not able to get good deals like now less will be able to spend to benefit the people of Hawaii who need it. The many locals that rely on us to bring our vacation dollars. Thank you and please do the right thing. Oppose HB2078 HD2, SD1 Amended

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

Conference room: 229
Testifier position: Support
Testifier will be present: No
Submitted by: Emilia Thomas
Organization: Individual
E-mail: emandbillk@earthlink.net
Submitted on: 3/29/2012

Comments:

I believe all bed and breakfast accommodations should have an on premises owner and provide what a true bed and breakfast offers, a bed and breakfast.

HB2078, HD2, SB1 is just another example of government taking away our property rights, freedoms and money from our pockets. I find this potential actions to be just another example of government over involved in our private lives and financial well being. Please allow the private sector to be just that "PRIVATE" The state of Hawaii should have no say into how private home owners must rent their property. I would like to ask what is the benefit to the great state of Hawaii to impose this on its home owners.

Craig Ralston
760 809-1120

Hello,

I am opposed to the above referenced bill. I believe passing this bill will adversely affect the rental cost of condo prices and then there will be subsequent increases to us as visiting renters. Thirty years ago this month, we spent our honeymoon on Oahu and have travelled to the other islands many since. Within the last 7 years we've gone every year. The Hawaiian islands are our absolute favorite vacation destination. Except for our honeymoon in 1982, we always rented through private owners and have never experienced any problems. If this bill is passed we firmly believe the condo rates will increase and jeopardize our ability to afford future vacations in Hawaii. We'd love to keep our travel in the United States but will explore vacation destinations in other areas if necessary.

Please oppose this bill and any other related bills!

Thank You!

Fran & Tim Seitz
Littleton, CO 80210

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Martin & Dianne Smith
Organization: Individual
E-mail: dmsfremont55@sbcglobal.net
Submitted on: 3/29/2012

Comments:
OPPOSE HB 2078

Proponents of HB 2078 are mainly real estate property managers, and their stated reasons for pushing the bill are because they claim vacation rental owners don't have on-site supervision, consumer protections for guests, and above all, don't pay their Transient Accommodations and General Excise taxes. The property managers argue, without any evidence to support their numbers, that independent owner-operators deprive the State of millions of dollars in unpaid taxes. Regarding consumer protections, guests are encouraged by owners to purchase travel insurance or trip cancellation insurance, and most credit cards offer reimbursement in the event of a breach of contract. As for an on-site presence, independent owner-operators are on call twenty-four hours a day, seven days a week, but not all property managers provide round-the-clock staff for the units they oversee.

The true motivation behind this bill, though, is that real estate property managers are losing profits and market share to owners who choose to self-manage their rentals. The internet has encroached upon the profits of real estate property managers, but it has also had positive effects, lowering prices for consumers and distribution costs for businesses. Just as the Industrial Revolution over 150 years ago rendered blacksmiths obsolete, so the Information

Age with its invention of the internet has revolutionized today's economy. Still, it is not the role of State legislators to interfere with competition in the marketplace.

Successful businesses are competitive and responsive to new developments, including cataclysmic ones like the internet. If property managers in Hawaii struggle to compete with the market changes it has wrought, they should consider reducing their exorbitant 30 to 40% service fees. Hawaii State Senators have no business interfering with the natural causes and effects of an efficient marketplace, particularly when it amounts to a restraint of trade to create a monopoly for a small minority.

Many vacation rental owners prefer to manage their own businesses, offering a personal touch while respecting their visitors' private information. Mandating them to provide client lists to a management company invites unauthorized use of their data. A real estate management company could sell the customer's personal information or use it to direct them to rent other properties in the manager's portfolio. HB 2078 will devastate these small businesses and do a disservice to other properties in the neighborhoods because the quality of management will suffer. HB 2078 will not accomplish what it is supposedly intended for, but will violate personal property rights in favor of special treatment for property management firms. It goes so far as to force friends and family members to book their stays through a property manager, a violation of the most basic of individual property rights.

The argument that Hawaii may be missing out on lost tax revenue by tax-evading vacation rental homeowners is the only legitimate one, but HB 2078 and HB 1707 won't ensure the filing of tax returns. And at no level does any government agency require a citizen's salary or income to be received by a third party. This is not a government function the Legislature can unload on the backs of people in the real estate industry. Everyone is bound by law to pay taxes they owe, and if there is non-compliance, those same laws impose penalties of interest, fines, or for fraud, jail time. Hawaii already has laws that require any person receiving income for transient accommodations to collect TA and GE taxes. If there is non-compliance of that law, the crime is in not paying one's taxes.

Rather than enact a problematic bill like HB 2078 into law, the Legislature must devise a way to discover if nonresident owners are paying all the appropriate taxes. Are there no creative thinkers in the Legislature that can solve this dilemma? Is there no common sense in the hallowed halls of government? In 1830, the Frenchman Alexis de Tocqueville wrote in his book, *Democracy in America*, that the brightest minds in the United States were in business, not government. This certainly still holds true today, especially in Hawaii.

The State could easily solve the tax problem by perusing their own files. Visitors flying to Hawaii are handed a form provided by the State on airplanes before they arrive, asking where they are staying and for the duration of their visit. Since the State already knows who owns each property and who is paying taxes, it could easily set aside a small clerical staff to compare the data. This would be a relatively simple remedy to implement. Another solution would be to require all TVU owners to submit an annual compliance report indicating that taxes have been paid.

In Honolulu, vacation rental owners have been crying out for years that archaic laws relevant to their industry need to be updated. No new permits for vacation rentals have been issued since 1989, yet the industry has significantly changed and grown since then. Legislators should be devoting their time to establishing a permit process with reasonable guidelines for all to abide by. The proposed legislation is clearly unconstitutional because it discriminates on the basis of residency and will take away the most basic of individual property rights. HB 2078 deserves to go down in flaming defeat.

I am a Canadian that likes to holiday in MAUI. I am concerned that bigger businesses always push out the little guy. If people want to manage their own property, it is their right!

I am also concerned that the provision imposing the requirement to use a real estate agent to manage 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.

Attn: protection Committee Representative:

Please note:

I do not support the proposed Bill 2078, HB, HD2, SB1

I Support paying tax – but am opposed to inserting property managers or realtors into the equation

This proposed 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!

I do not support this bill!

Mahalo,
Lani Hoge

Sent from my iPhone

Sent from my iPhone

Attn: protection Comittee Representative:

Please note:

I do not support the proposed Bill 2078, HB, HD2, SB1

I Support paying tax – but am opposed to inserting property managers or realtors into the equation

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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!

I do not support this bill!

Mahalo!
Kapa'a Resident,
Kyra Habekoss

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jesse Rackliff
Organization: Individual
E-mail: jrackliff@gmail.com
Submitted on: 3/30/2012

Comments:

I propose this legislation for the following scenario.

A self-managed Rental, earning \$3000 rental income per month has the following expenses and remaining profit to be applied to mortgage, advertising and improvements or repairs. Monthly Expenses include \$400 for GE/TA, \$200 prop tax, \$800 Condo Homeowner Fees, \$300 Housekeeping, \$150 various insurances, \$300 utilities/phone/misc. What remains to pay for mortgage, advertising and repairs or improvements and any leftover profit: \$850

Same Rental, under the new law, paying 40 percent to Property Manager (commission charges typically range from 20 percent to 50 percent plus other fees), earning \$3000 per month. Monthly Expenses now include all the former ones plus \$1200 commission to the Property Manager. So, before paying the mortgage, advertising to improve my occupancy (which is much worse under Property Managers than on my own), repairs, improvements, I am already IN THE RED by \$350. Add a mortgage and maybe I'm losing at least \$2000 each month. There is no cushion for major repairs, Special Assessments, and definitely no easy way for owners to improve their properties with remodels, updated appliances, furniture, etc.

Within a short timeframe, local businesses who sell supplies to these self-managed renters will no longer have self-managed renters as customers because of this legislation's negative impact.

Dear Representatives,

I am opposed to this bill for my own sake and for the sake of the state of Hawaii. I have been a visitor to your state each of the past four years. I have always used VBRO (Vacation Rental by Owner). I have never had a bad experience. Minor issues were always handled promptly and satisfactorily. We don't need some law to "protect" us. The VRBO service always has customer reviews which tell us who to trust. Owners know this, respect it, and behave accordingly. This bill would cause rental rates to skyrocket. How foolish that would be for Hawaii. There are other destinations that cost far less to go to. If you do this, you will just make Mexico, Florida, the Carribean and others a better option for our future travel.

Respectfully,

John Sattel
Henderson, NV

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marsha Vaughn
Organization: Individual
E-mail: marshavaughn@comcast.net
Submitted on: 3/30/2012

Comments:

Please see the attached article from CivicBeat - the Honolulu news source, which won an award for Best Overall News in 2010! As of this morning there were 55 comments - all opposed to this legislation. I have copied and pasted them here. Sorry for not taking the time to format them better but I believe they are readable. I believe we all understand the need to collect taxes and to prevent the proliferation of illegal TVRs. This is NOT the way to do it. Mahalo for your time!



[Best Overall News Site](#)
[2010 Excellence in Journalism Award](#)

Friday, March 30th, 2012

Section 1. Under The Radar: Vacation Rental Controversy

There's something awry in some new pieces of legislation that may well become law in July of this year. Because I've found no articles about this issue in the local print newspapers and because this legislation if passed has potential to hurt not only the non-resident property owners, but everyone who visits or lives in Hawaii, I would like to share critical details about this issue with your readers.

The legislation in question consists of four bills, three of which would require all non-resident (i.e. non-voting) owners to place their property under the complete management of a Real Estate Licensed Property Manager, who typically charges up to half or more of all the rental income as their fee. Today it is legal under Hawaii Real Estate code (HRS467) for an owner, regardless of residency, to manage their rental property directly, with the help of a local contact.

Critics say the bills would greatly increase their management costs while supporters argue that millions of dollars in revenue are leaving the state.

In reviewing all of the testimonies as well as the overall 2012 Legislative Agenda, what is clear is that at least some of the backers are the large Property Management firms. The only news running in the print newspapers suggests that these measures are to help collect taxes that are not paid, so it would sound like a good idea to someone who reads that. But the reality is that every owner who has a Permit and a Tax ID who is paying their taxes wants to open up their books for audits and these are the ones being penalized. The bills proposed, however, fail to provide methods to catch the people who are not already paying their taxes. The fatal flaw of the bills purported to collect taxes not paid is that they target only the law abiding tax paying owners and do nothing to identify the people who don't have permits or who have never paid taxes. The other flaw is that resident owners do not also have the same scrutiny as non-residents, but one can understand that the same opportunity for "cheating" exists for any owner, not just non-residents.

Officials cite various reasons for writing this new legislation aimed only at non-resident owners, but upon careful review of all the facts, it appears there are several issues driving this change. First, it's important to understand what is true and what is not.

Legislators maintain that the need for this law is to put a quash on "tax cheats" who rent their property but don't report their income and pay their GE and TA taxes. Fact: The most recent report of the Department of Taxation dated November 2011 shows that 96 percent of the number of cases in litigation right now are with big firms like Property Management companies, Hotels and Time Share operations. 3.5 percent are cases by DOT for individual owners.

Also, the legislators have been told by the Attorney General not to pursue these bills as they are likely unconstitutional because it discriminates between resident and non-resident, and, while a month ago legislators passed early versions of the bills "citing studies" supporting their reasons for targetting non-resident owners, when asked for specifics they have never been provided. In fact, one Senator wrote back just a few days ago to say that she was unable to get a copy of a cited document from the Department of Taxation and suggested we now try to get this report on our own. What we do know, is the last statistical audit performed (by the Hawaii Tourism Authority in 2007) says non-residents ARE paying their taxes (the term was "generally in compliance" which meant a problem does not generally exist).

In the absence of a case that is convincing at least to non-resident owners, why they are being targetted, and why they alone should now be forced to turn over their properties to a Property Manager, let me explain how this will hurt these owners as well as everyone that has any income tied to this part of the tourism business. Here is a fictitious yet realistic and conservative example of what it would cost to operate a rental as I do today, on my own, and what would happen under the new laws if passed:

Self-managed Rental, earning \$3000 rental income per month has the following expenses and remaining profit to be applied to mortgage, advertising and improvements or repairs. Monthly Expenses include \$400 for GE/TA, \$200 prop tax, \$800 Condo Homeowner Fees, \$300

Housekeeping, \$150 various insurances, \$300 utilities/phone/misc. What remains to pay for mortgage, advertising and repairs or improvements and any leftover profit: \$850

Same Rental, under the new law, paying 40 percent to Property Manager (commission charges typically range from 20 percent to 50 percent plus other fees), earning \$3000 per month. Monthly Expenses now include all the former ones plus \$1200 commission to the Property Manager. So, before paying the mortgage, advertising to improve my occupancy (which is much worse under Property Managers than on my own), repairs, improvements, I am already IN THE RED by \$350. Add a mortgage and maybe I'm losing at least \$2000 each month. There is no cushion for major repairs, Special Assessments, and definitely no easy way for owners to improve their properties with remodels, updated appliances, furniture, etc. So local businesses that sell supplies to these owners will soon see the results of this legislation's fiscal impact on the rental business and then their own businesses.

Think of this as your employer telling you you just got a 40 percent paycut, and then you need to figure out how you are going to get by. This is exactly what this legislation means.

For the owners, many simply will not be able to pay this amount of money each month and they will be forced to sell. Hawaii's real estate market, barely recovering from the downturn, will be flooded with unwanted units for sale. Sellers owing more than what they can sell the properties for, will most likely be doing short sales, foreclosures, and in worst case scenario, declaring personal bankruptcies - all due to this legislation. Due to the highly questionable constitutionality of the measures, and huge financial damages owners will suffer, Hawaii should brace for legal challenges all the way to the Supreme Court level. Hawaii's taxpayers, unfortunately, will be on the hook to pay for the state's legal defense.

Meanwhile, the local businesses who have supported the self-managed rentals in a service capacity, such as Housekeepers or Handymen will immediately lose their income when their former jobs are now hired out and managed by the Property Management firms or when the owner simply is forced to sell. Visitors who have repeatedly come to Hawaii because they have their favorite places to stay and enjoy their relationships with the owners may be looking to spend their vacation dollars elsewhere. This all will start to become very clear in July if these bills are enacted.

How does this help Hawaii? Is there not a better way?

The Department of Taxation and the Legislation surely must be able to find other ways to solve this problem than creating a larger problem for Hawaii by implementing laws of questionable constitutionality, that cause significant financial harm to non-resident owners, depress property values in Hawaii and hurt the state's tourism.

A woman testifying against one of these TVR bills offered that Florida sets a good example, so before setting into motion some laws that will have some really bad consequences, we could learn from others. By one estimate Florida has about four times as many owner rentals than Hawaii, yet they seem to have a system in place to monitor tax compliance that works well for them and does not force owners to hire real estate agents. They employ three basic strategies, 1)

have special programs that work between agencies, 2) enforce stiff fines for non-compliance, and 3) have a "whistle blowing" opportunity to expose cheaters.

In closing, I'll share a little about my personal situation. Since I left the Rental Pool of my complex to self-manage my rental, my rental receipts have grown by 44 percent. I make more and Hawaii collects more — 44 percent more GE and TA from me. I'm happy with that and the Tax Department should be happy with that too. I ask you to consider, why would a "tax cheat" report 44 percent more revenue to the Department of Taxation when they are self-managing their own property?

So now it's up to you to decide who or what do you think is flying under the radar? The non-resident owner "tax cheat", the true agenda of the 2012 Legislation, or something else?

(If you would like to learn more about these measures, you can visit Hawaii.gov Measure Status (HB1706, HB1707, HB2078 and SB2089). The final hearing for HB2078 is Friday morning, Testimony is due Thursday, March 29 no later than 9 a.m. You can submit testimony or watch the measure status on [this link](#).

About the author: *Elen Stoops grew up in Southern California and lives in Northern California. She studied at UC Davis and Santa Clara University and has a career in Technology Sales. She and her family have been visiting the Hawaiian islands since she was a teenager. She was delighted when she was able to save for and then buy a vacation rental and share the dream of a Hawaii vacation with others. Elen enjoys organic gardening, yoga in California and Makawao HI, and hiking in the Sierras and on the beaches with her dog Buster.*

Comments:

Meera Garg Kohler

Lets add up all who stand in line to be hurt by these bills:

- The individuals who invested in Hawaii under rules that are now changing, resulting in them being forced out of their dream retirement home and modest businesses
 - the realtors who are making handsome commissions from selling these properties, because now there will be no market for them
 - the housekeepers and support industry who have been well compensated for providing services to the TVRs
 - the contractors and hardware and furniture stores who have supplied millions of dollars of home improvement needs
 - the tourism support industry - restaurants, car-rental agencies, activity providers...
 - The visitors who will go to places where they are still allowed to deal directly with property owners and get the superior service that they have become used to
 - the state of Hawaii, who will lose out on GET and TAT and non-resident income taxes
 - the counties who will see property taxes decline as a result of the properties going into foreclosure and dragging property values down with them
- And who gains??? I the end - no-one. And the Property Managers can rub their hands in glee because their special interests have been served and they have run the competition out of business.

[Jill Oudil](#) · Works at [Coldwell Banker Real Estate Corporation](#)

I have owned a vacation rental on Maui since 2011. Had I know of this pending legislation neither myself or two of my friends would have invested in 4 properties at the Honua Kai in Maui since November. The development was sold out in 2007/08 but most sales collapsed during the Real Estate meltdown. These suites are finally starting to sell briskly as the market slowly recovers. These Bills will be a huge disincentive for investors and will likely stall sales and further hurt the development. This will be amplified in other developments and projects throughout the Islands.

I hire all local people, pay my GE and TA taxes and have filed my non resident Federal and State income tax. I was just in Maui helping my friend set up their condo to be ready for VRBO and their self management. They could not afford to make this investment if they were forced to use a Property Manager. They spent thousands on furnishings and renovations not to mention the daily cost associated with being on the Island. This kind of activity is very beneficial for the Hawaiian economy. Why do certain Legislators want to kill this off? Hopefully cooler heads will prevail.

thank you

Georgiana Woods · Coldwell Banker Real Estate Corporation
Hi Jill, do you lease yours out through VRBO?

[Jolene Thym](#) · [Children's Ministries Coordinator](#) at [Bridges' All Stars Children's Ministry](#)

Exactly why the BIG pocket folks in Hawaii get to do this to the "little guy" is ridiculous. They grab the lion's share of every dollar that comes to Hawaii as it is. So let's hurt the little guy who loves Hawaii enough to BUY a vacation home, spending their own dollars and paying taxes... and also rent it out, generating EVEN MORE tourist income for Islanders.

Shame on you, Westin, Ritz-Carlton, Four Seasons, Marriott and the rest of you big hotel owners. You should be standing in support of those who provide the backbone of the Hawaiian economy.

[Monica Hanson](#)

Hurting tourism, depressing property values and targeting NON VOTING entrepreneurs is wrong! I'm stunned an issue of this magnitude is flying under the radar and impressed that it's being scrutinized by intelligent and strategic thinkers - who are bringing other solutions to the debate.

Lori Murray · Works at [Udelhoven Oilfield System Services](#)

If these laws pass they are going to cost the State of Hawaii a lot of money in lost taxes, AND huge fees defending all the law suits. Then they'll be found unconstitutional and the State will be sued for damages. Ugh!

[Marilyn Bockstanz Leland](#) · [Anchorage, Alaska](#)

Thank you, Elen, for a well-written article. I've owned my condo for about three years and even with a good stream of renters, it's only doing a little better than breaking even, which, frankly, is all I was hoping for. If these laws go through, I will be put in a serious loss position and I will probably have to sell, along with hundreds, maybe thousands, of other owners. I can't imagine

what this will do to the real estate market in Hawaii.

I am very sympathetic with Hawaii's desire to know that everyone is paying their taxes. I know that I pay mine and all of the other owners that I know pay theirs as well. I don't doubt that there are some who are not paying their taxes. But if the State of Hawaii is unable to enforce the existing laws, how do they ever think they'll be able to enforce these new laws.

Don Raymond

This reminds me of Canada's Gun registry program. They spent billions to try to make everyone register their firearms. This was under the guise of protecting citizens from people who would commit criminal acts by stating that they could be tracked down through the gun registry. This only made honest law-abiding citizens who owned guns for hunting criminals if they did not comply. They finally scrapped this legislation last year after realizing those who committed crimes or acts of violence with a gun didn't ever register them. Just because you put more laws into place does not mean those that are not abiding by the laws will suddenly appear and say "HEY; I've been breaking the old laws but this new one scares me so now I want to abide by it".

[Ada Eschen](#)

My local employees knew nothing of this legislation nor the effect it could have on them. I found out about it because the property manager at my complex sent me an article to let me know I would soon need to hire them! I don't think the locals understand how high the cost of doing business in their state is. They just know we collect thousands of dollars in rent each month, while they struggle to pay their bills. This article shows who the real money grabbers are. Thank you for shedding the light on the truth and letting everyone know how much we love the state of Hawaii and how much we care for our properties there.

[Nancy Roy Reid](#)

I don't understand how the State can impose a law forcing a private business owner to hire a manager that they don't want or need. I hope the Attorney General sees that this is a violation of the constitution and strikes down the law if it passes through the Legislature.

[Bonnie Aitken](#)

Bonnie Aitken

Does anyone have contacts with 60 minutes or any of the national news shows? This is a story of politicians selling their influence for campaign dollars. We need to see which legislators are pushing this agenda and for whom. I think some daylight here will tell the tale of who is trying to muscle out the small business person. We need to make a flaming example of the legislators flagrantly willing to break the law of the United States of America and the NAFTA Treaty and hurt all the citizens, both on and off island folks who just try their best to make an honest living. This is not about tax avoidance. This is about control; raw, pure power grab of other people's hard work who have made their small businesses successful. Let's look for the daylight and uncover the real story and see who is dirty. It's not the tax-compliant vacation rental owners, in or out of state so why bother them?

If the tax collectors cannot find the non-compliant parties, do what the IRS does, pay a finder's

fee to turn in cheats. That way, the tax department isn't overburdened with finding tax avoiders.

I was appalled to hear that the Attorney General suggested to the legislators that by using the term "off island vacation rental owners" in addition to "non resident owners" in these bills would actually avoid the problem of the unconstitutionality of these bills. Can someone find out if this is sound advice from the Attorney General or will Hawaii still be liable for damages? Time for the Attorney General to do some explaining to the citizens before the state has major legal bills over this. I thought the state wanted more money, not more liabilities.

John Eckel · [President](#) at [Pinnacle Investment Management Inc.](#)

Bonnie

That is not a good idea. It is a really GREAT idea. I have been trying to bring this attention to the Kramer Report, but 60 minutes would be really incredible

Marsha Vaughn · [Richmond, California](#)

I read this tonight on a community board posting. It seems pretty accurate.

"The principle private groups behind these bills are the The Hawai'i Hotel & Lodging Association and/or other hotel industry lobbying groups, large condominium operators (such as Aston, Outrigger, etc) and some mid-size property management firms such as Whaler Reality, etc. If you go to the original bill and click on the testimony links, you can see who testified in support of these measures -
http://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=2089&year=2012.

Since the dawn of online vacation rentals, the Hotel Association has lead the charge against private vacation rentals. They view private rentals as a threat to their revenue stream and were one of the driving forces behind Maui County's crackdown on illegal vacation rentals in the late 90's. They have not found a way to impede legal owner-operated vacation rentals in hotel zones, until now.

The authors of this legislation are named in the bills and we should be able to use public records to obtain their campaign contribution details. If we follow the money we may be able to find out how the supporters were able to get so many bills authored in such a short period of time. We need to expose which legislators are pushing these bills and what their true motivations may be." Apologies to the author for posting your thoughts if you didn't want them on this forum but I consider them WAY too important NOT to post.

[Terry Gardiner](#) · [Broker/Owner](#) at [Coldwell Banker Westburn](#)

These bills are a travesty. As a Canadian investor in Maui and frequent Hawaiian visitor I was appalled when I first discovered the first Bill HB 1707. The fact that it morphed into these two bills now before the Legislature will have other investors seriously rethinking their Hawaiian plans.

part of my original submission re: HB1707 which is just as valid for HB 1706

After reading the submissions to the legislators it is clear where the battle lines are drawn and who stands to benefit. Both the Hawaiian Association of Realtors and The Hawaiian Real Estate Commission have come out against these Bills as well as The Hawai'i Tourism Bureau noting

that there are already laws in place regarding the collection and remitting of GET and TAT taxes and finding that these Bills are overkill. The other side has a very strong contingent of Rental Property Managers. These Rental Property Managers trot out the contention that millions of dollars in GET and TAT are being collected but not remitted by scofflaw owners or even worse, not collected in the first place. This flies in the face of the most recent audit of GET and TAT which found that a vast majority of owners were in compliance. What is really at issue for the Rental Property Managers is the fact the Vacation Rentals By Owner and other similar business models are putting downward pressure on their ability to a charge 30/45 % to manage a person's vacation rental. By legislating away the rights of owners to manage their own properties this legislation will hurt tourism. Who will end up paying a portion of the increased cost brought on by the monopoly the Rental Property Managers will enjoy and the fees they charge? The consumer is who! When you increase costs and prices you lessen demand which will have a negative impact on tourism in general and Hawaii as a whole.

[Kathi Iverson](#)

I am a Big Island resident, an active Realtor and I have a vacation rental that I advertise on VRBO. I pay all my TA/GET taxes as well as higher property taxes.

From a realtor standpoint of view, this will only hurt our real estate market more. As potential clients who are contemplating a purchase here for use as a second home or vacation rental, the added expense alone of being forced to use a property management company or realtor to manage the unit could potentially be the difference in making the decision to purchase or not.

Guests staying in my unit enjoy the personal touches I provide. Many times they return year after year to stay in my condo. These guests have names and are not just another booking. A management company does not have a vested interest in my unit.

As an owner I should be able to do what I wish with my property as long as I am following the law. We already have a law in place that requires owners to submit the appropriate taxes and have an on island contact.

I truly believe a cheat is a cheat, regardless of what laws are in place, or where they reside. This bill will only punish those of us that follow the law and are paying our taxes.. When is enough enough. The system is broken, but this is not the way to go about fixing it.

[Kim Sanderson · White Rock, British Columbia](#)

Great article. I dont have any desire to have a property manager involved in my Kauai home. It is our home and we take great care with it. We share it with guests when we arent there. We screen our guests and have never ever had any problems - it has been completely seamless. A property manager wont give nearly the care and attention we do - plus they'll charge us 40% more which we'd have to charge our guests. We paid every cent of tax and 100% support paying taxes and think those that dont should be fined. We enjoy this our condo greatly and if forced, we will either sell or just keep for ourselves. As there is no way we'll allow a third person to be responsible for who stays in our lifetime investment and very cherished Kauai home. I hope legislatures re-think these crippling bills. I wish more media would write about this as when i tell fellow Canadians or my past guests they are completely baffled and outraged.

Gail Keene Baker · [UC Davis](#)

Well stated article. The homeowners are finally getting wind of all this legislation and we are all getting worn down by the constant tweak of each bill and so many similar ones to keep track of too. The homeowners have banded together and formed a non profit Rental By Owner Awareness Association www.rboaa.org to help fight these bills and to keep up to date on what is happening. Please take the time to join this group and hopefully support it with a membership fee. This may be an on going battle. The DOT has done such a poor job in letting homeowners know what to tax and what not to tax that there is much confusion that will hopefully get cleared up in the process. Let's hope we don't have to take the state to court over these bills!!

Julie Leigh Domeny · Top Commenter

I read the article Gail - and yes - it impacts homeowners and renters alike. Really alarming!

Gail Keene Baker · [UC Davis](#)

Julie Leigh Domeny Yes it is very alarming. Government needs to stop invading our lives!! The people this affects are those that already pay their taxes!

[Glenn Wilcox](#)

This really brings to mind the thought that an all out war is being waged against the small business owners and average people. If you tried to mandate that any other business owner was forced to use a management company to sell their product it would be all over the news. I wonder has anyone contacted any of the national news agencies about this bill? This totally goes against everything the constitution stands for!

[Dave Werry](#) · [San Jose, California](#)

Our tax dollars at work! It seems that even in paradise, the politicians are beholden to Big whatever and special interests and lobbyists. In this case it's Big Real Estate and entities that scam the system. I was really looking forward to vacationing in Hawaii someday in the type of vacation rental that will be affected. Guess I'm just going to go to Disneyland instead (not Maui or the Aulani on Oahu). Aloha.

[Mike Marion](#) · [Healthcare Fraud Data Analyst](#) at [Seiger Gfeller Laurie, LLP](#)

I don't understand how the legislature can ignore the Attorney General telling them that this law is likely to be unconstitutional. There has to be something else going on behind the scenes.

Donny Nguyen

This bill is not good for Hawaii. Why do they believe that its only the out of state owners are tax cheats. Cant the residents cheat as well? Is it because the out of state owners dont have a vote and are easy targets?

[Alan Flandreau](#) · Works at [The Bike Route Inc.](#)

Senator, how can you quote to the 2005 study that you've never seen? You admit you don't have it and can't get it but yet you make an unsupportable claim that 9,000 units are non-conforming

[Dianne Smith](#)

Proponents of HB 2078 are mainly real estate property managers, and their stated reasons for pushing the bill are because they claim vacation rental owners don't have on-site supervision, consumer protections for guests, and above all, don't pay their Transient Accommodations and General Excise taxes. The property managers argue, without any evidence to support their numbers, that independent owner-operators deprive the State of millions of dollars in unpaid taxes. Regarding consumer protections, guests are encouraged by owners to purchase travel insurance or trip cancellation insurance, and most credit cards offer reimbursement in the event of a breach of contract. As for an on-site presence, independent owner-operators are on call twenty-four hours a day, seven days a week, but not all property managers provide round-the-clock staff for the units they oversee.

The true motivation behind this bill, though, is that real estate property managers are losing profits and market share to owners who choose to self-manage their rentals. The internet has encroached upon the profits of real estate property managers, but it has also had positive effects, lowering prices for consumers and distribution costs for businesses. Just as the Industrial Revolution over 150 years ago rendered blacksmiths obsolete, so the Information Age with its invention of the internet has revolutionized today's economy. Still, it is not the role of State legislators to interfere with competition in the marketplace.

Successful businesses are competitive and responsive to new developments, including cataclysmic ones like the internet. If property managers in Hawaii struggle to compete with the market changes it has wrought, they should consider reducing their exorbitant 30 to 40% service fees. Hawaii State Senators have no business interfering with the natural causes and effects of an efficient marketplace, particularly when it amounts to a restraint of trade to create a monopoly for a small minority.

Many vacation rental owners prefer to manage their own businesses, offering a personal touch while respecting their visitors' private information. Mandating them to provide client lists to a management company invites unauthorized use of their data. A real estate management company could sell the customer's personal information or use it to direct them to rent other properties in the manager's portfolio. HB 2078 will devastate these small businesses and do a disservice to other properties in the neighborhoods because the quality of management will suffer. HB 2078 will not accomplish what it is supposedly intended for, but will violate personal property rights in favor of special treatment for property management firms. It goes so far as to force friends and family members to book their stays through a property manager, a violation of the most basic of individual property rights.

The argument that Hawaii may be missing out on lost tax revenue by tax-evading vacation rental homeowners appears to be legitimate, but upon examination is merely a smokescreen. The Department of Taxation conducted an audit of vacation rentals in 2007 and found that the vast majority of owners DID pay their taxes. There is no evidence whatsoever to support this bad legislation, which wouldn't ensure the filing of tax returns anyway. And at no level does any government agency require a citizen's salary or income to be received by a third party. This is not a government function the Legislature can unload on the backs of people in the real estate industry. Everyone is bound by law to pay taxes they owe, and if there is non-compliance, those same laws impose penalties of interest, fines, or for fraud, jail time. Hawaii already has laws that

require any person receiving income for transient accommodations to collect TA and GE taxes. If there is non-compliance of that law, the crime is in not paying one's taxes.

Rather than enact a problematic bill like HB 2078 into law, the Legislature must devise a way to discover if nonresident owners are paying all the appropriate taxes. Are there no creative thinkers in the Legislature that can solve this dilemma? Is there no common sense in the hallowed halls of government? In 1830, the Frenchman Alexis de Tocqueville wrote in his book, *Democracy in America*, that the brightest minds in the United States were in business, not government. This certainly still holds true today, especially in Hawaii.

The State could easily solve the tax problem by perusing their own files. Visitors flying to Hawaii are handed a form provided by the State on airplanes before they arrive, asking where they are staying and for the duration of their visit. Since the State already knows who owns each property and who is paying taxes, it could easily set aside a small clerical staff to compare the data. This would be a relatively simple remedy to implement. Another solution would be to require all TVU owners to submit an annual compliance report indicating that taxes have been paid.

In Honolulu, vacation rental owners have been crying out for years that archaic laws relevant to their industry need to be updated. No new permits for vacation rentals have been issued since 1989, yet the industry has significantly changed and grown since then. Legislators should be devoting their time to establishing a permit process with reasonable guidelines for all to abide by. The proposed legislation is clearly unconstitutional because it discriminates on the basis of residency and will take away the most basic of individual property rights. HB 2078 deserves to go down in flaming defeat.

[Sylvia Remington](#) · [Western Washington University](#)

We own three condos on the Big Island and manage the rentals ourselves. We hire our own cleaners and if any maintenance problems occur, I have people I can call on. I carry my cell phone 24 - 7 and I'm always available to our guests. Our units are rented about 70% of the year. We collect and pay GE and TAX taxes. We used a property management company earlier and received about 5 rentals per year through them. I had guests tell me that when they called the property manager, the phone call would go to an answering machine. They property manger let me rent my unit and they would clean it, but charge me \$85 for every time I rented it. The linens were supplied by them (at \$450 every 2 years) which became worn after a few years. When they did rent for me they'd charge me a very high rate if the guests used a credit card. (seems to me that should have been their expense, not mine), and in the last year they told me their invoices to me would not break down what they collected in GE or TAT taxes, making it almost impossible to figure out what I owed in taxes. I now put quality linens in my condos and change them out often. We take great pride in our condos as they are also our vacation homes. Many guests have written raving reviews for our condos and many of my guests tell me they will not rent through a management company. I have seen some of the other condos this group manages and the renters were obviously not screened well. Our resident manager at the condos has had to deal with problem guests and according to him, problem renter are normally ones that come through the property management companies not people that rented directly from owners.

Ellen, you wrote a very good letter and you are correct about what will happen to owners of vacation rentals. Very few will be able to afford to use property managers and give them 40% of what they take in. It is very expensive to have a place on the Island and we only break even with expenses while we manage it ourselves.

i understand that Hawaii wants to make sure it is collecting it's taxes, but these laws are not the answer.

Why not try to enforce the laws that are already written?

We are all facing lower property values and struggling in a poor economy. These bills will only worsen the situation.

I am hoping that these lawmakers will take into consideration our comments of opposition to these bills. I love Hawaii and have enjoyed doing many upgrades to our units. If we have to pay a property manager, be assured, we will not be hiring contractors or purchasing appliances, tile, carpet, furniture or other building supplies on the island. We've brought many people to the Island which has brought in large amounts of money to the state. Please don't take this joy away from us.

Suzy Olson

I had two different condos in Maui. I had a horrible management company to start with. They kept greater than 50% of the rental fees that they collected, and they charged such unreasonable rates, that it was difficult to rent. When I would tell them to block it out for me, I would travel all the way to Maui from Seattle, only to discover that someone was staying in my condo. They would "walk" me to someone else's unit, which was never as nice as mine. I had all new floors, furniture, linens, dishes, appliances.....very frustrating. I have to say that the second company I used, was very good to me, and fair to me and the people they rented to. They charged the best rates on Maui, I think, which kept the units full, and so they didn't have to keep such a high portion of the rental fees to make money for themselves. I think I got lucky in my case, because I don't hear many good stories like this.

[Cindy Dumon](#) · [Owner](#) at [Self employed](#)

I have had my Kauai house for 23 years. I collect and pay the GE and TA taxes. I lose about \$2000/year, although I do upgrades every year that bite into my profits. My dealings with leasing agents have been completely unsatisfactory and I have had no use for them for years. I pay my housekeeper, who is also a neighbor, and a young mother with two children, handsomely. She is quite worried about what this bill would do to her, as it would represent a significant loss of income. When I bought my house in 1989, my real estate agent neglected to disclose that my Kilauea house was in a non-visitor designated area. When Kauai decided to enforce this ordinance, it cost me \$15K to comply with all the requirements. Ultimately, I was granted a non-conforming use permit. However, I lost a lot of sleep over that, and again, am losing a lot of sleep over this proposed law. I still have about five years left to pay off my mortgage, so it will be a hardship to stop renting my house. I will try to hold onto it, but I may have to sell it. I did call and leave a message with a local leasing agent. She had a lovely website, and I wanted to know how it worked if she would manage my house. True to form, she never returned my call. So typical of the kind of service you get with these people. If Hawaii passes this law, I will stop

renting my house, and the \$4,000+/year the state has been receiving from my TA and GE taxes will disappear. I don't know anyone who makes a profit on their Hawaii vacation rental. It is a lot of work and you do it just because you love your island. I was very naive when I invested in Kauai years ago. If I had known it was going to come to this, I would have put my money and my energy elsewhere.

[Adam Garstka](#) · Hartford

I find it incredible that the legislature would consider a bill like this. Not only is it probably unconstitutional, it will also be devastating to the small businesses economy. All the people who work for these vacation rental owners will be out of work, the income that the visitors bring to the islands as well as the taxes that the vacation owners pay will be lost. What owner can afford a 50% cut in income? They would be better off selling the property and taking their money to invest anywhere. Any amount of money that the government gains from the few who will be forced to work through an agent will be more than offset by the loss from the business that will shut down. Very short sighted.

[Geoffrey Maroun Akiki](#) · [University of Vermont](#)

This bill sounds like an attempt to help lobbyist groups and "insiders" rather than the stated intention of tax compliance. If taxes are the problem, how does having a real estate broker really help? In fact, this is a way to divert more of the rental income from the owners to others. In this age of the internet and easy access to information, owners should be allowed to manage their own properties, not have to pay bloated overhead to non-value add entities. This bill is ignoring the progress of information and access afforded by the technologies we have today.

[Michael Meechi Annis](#) · [Tunxis Community College](#)

These bills are unbelievable. The legislature must be trying to slip this by the concerned citizens by introducing 5 separate bills to accomplish the same thing. If they truly believe this is a valid problem to be solved and can withstand public scrutiny, why try to ram-rod it through with 5 separate bills? I haven't seen any proof of the claims concerning the loss of tax revenue. Senator can you produce anything to support your position other than an a mysterious 2005 report that you admit to not having?

[John Crowley](#)

his bill is bound to hurt the Hawaii economy. Those owners who currently are not paying taxes will continue to do so. The bill has nothing to identify these people. The only people to be hurt are the honest owners who pay the taxes already but now they will have to pay a real estate broker to operate a business. No business can survive if they suddenly get a 50% decrease in revenue that is forced upon them by the government. Once again the little guy is screwed by the government.

Kristin Raabe Maksic

I am glad to see these bills getting the much needed "press time". This has been flying under the radar and I am glad to see it getting exposed. These "bills" don't actually affect me personally because I do have a management company who handles my condo. What I think about everyday is, what if I had a mortgage. I would be in huge trouble even with a meager \$1000.00 mortgage. I

support you all in your endeavors to fight these bills. This is your livelihood as well as my potential choice as to how I see fit to run my property. Thanks Elen

[Della Halvorson](#)

Thank you Elen for this great article that outlines the issues owners are facing with this legislation.

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.

[Shelly Davis](#) · Altera

This kind of "under the table" legislation is bad for everyone. Business in Hawaii and investment suffers. This bill is being sponsored by the the folks who stand to benefit by grabbing all the property management that people will be forced to use. Not a good move Hawaii!!

Kathy Sheehan

Excellent summary, Ellen. And Meera, such a good list of all the people in Hawaii who will be hurt if these short-sighted bills are passed. Other states, like Florida where I live, only stand to gain.

[Kim Brown Bixler](#) · [Manhattan Beach, California](#)

it sounds like there will be a good opportunity to buy cheap real estate in Maui in about 6 months; I've been looking for a place to put my stock profits into and this is perfect

John Eckel · [President](#) at [Pinnacle Investment Management Inc.](#)

A very well-written article which accurately depicts the proposed legislation and the potential consequences if it passes.

[Eileen Sheridan](#) · [Pennsylvania State University](#)

This is shameful and so unfair to all those with rental property in Hawaii (that the rest of us enjoy, by the way!).

[Meredith Johnson](#)

Great article! Stated very well!

[Mika Roberts](#) · [San Diego, California](#)

Thank you, Elen!

Don Raymond

All I want out of all this is the equal playing field that residents of the state in which I am an investor in also have. This is what I as well as all other Canadians and Mexicans are guaranteed under the North American Free Trade Agreement(NAFTA). I think the same feelings are felt by the Mainlanders who are also guaranteed equal treatment by another State under the Constitution of the United States of America. Whether it is decided that ALL must employ a realtor/property manager or none need to do this I feel I am able to agree to. We must ALL sink or swim together

with no preferential or discriminatory legislation in place. The State of Hawaii should not subject its constituents to a costly legal battle which will no doubt ensue from such legislation. There are many other areas in which tax cheating is going on; yet the State only seems concerned with targeting those who have no power to vote. I saw a sign in a business in Kiihei that stated all tips are by cash only. WHY? To avoid claiming extra income? Why is there no new legislation being introduced to fight these blatant cheaters. I would like to operate my business of Transient Accommodation to our guests as I would like to be treated if I were a guest. We provide much more of the simple things such as mega rolls of tin foil, plastic wrap; a good supply of toilet paper and paper towels, dish soap, laundry soap and re-usable shopping bags. This we feel cuts down on many of the un-necessary costs associated with renting a condo as well as less environmental impact on the landfill site. We have many comments in our guest books by guests who greatly appreciate this type of treatment. When I sit around our social area I hear a relentless spew of complaints from angry renters who rented through Rental Management companies about cleanliness, when were these pictures of the condo I rented taken, Is this the same condo you posted pictures of. The list goes on. Please allow us to operate on our own and provide the great service we know we provide without having to be subject to complete control of Corporations that only want to take our Dreams and turn them into Nightmares.

[Linda Mitchell](#)

Thank you for this article on proposed bills. I am like many others who self manage condos on Maui, and hope to meet expenses and have some money left to make improvements on the condos. I cannot afford to pay a manager and feel that it is unfair of the government to require me to do so. It is obvious that the non-resident would be a victim of discrimination if these bills were passed. It is clear that the legislators are mindful of the fact that non-residents cannot vote. I have read that several large management companies are in favor of these bills. I do not believe they are interested in helping to solve Hawaii's tax issues. Rather they appear to be backing bills that would help them salvage their business. When trains came on the scene, I imagine stagecoach operators would have liked the government to insist that people ride the stagecoach. The internet has provided a way for consumers to deal directly with owners who care about their property and their clientele. The owners employ locals and buy local products. I cannot see how these bills will help the tourist, nor do I see how they will collect more taxes.

[Kevin Sheldahl](#) · Stanford

As one who makes his living advising others how to invest their assets, it's clear to me who the winners will be if this law passes: property managers and hoteliers. No wonder why they are big supporters of this bill -- this legislation helps to greatly reduce their competition! In their eyes, what could be better than eliminating the competition, building up cash on the sidelines, waiting for the eventual fall in rental property prices as non-residents are forced to unload their now unprofitable investments, and then swooping in to purchase great rental properties at rock-bottom prices. Not a bad business model. Of course, it's at the expense of individual property owners who help provide key support to the Hawaiian economy. Let's hope the legislators come to their senses and vote on the side of sound and fair basic economic principles.

Elaine Krebs Zeine · [Missouri Baptist School of Nursing](#)

Great article Elen. I hope this bad bill does not become a law which will hurt the good people of Hawaii and its many part time dwellers.

[Cindy Tervola](#) · [Lahaina, Hawaii](#)

Simply said...I am 100% against this bill. It will destroy an already hurting Hawaiian economy.

[Reply](#) · [1](#) ·

· [10 hours ago](#)

[Cindy Tervola](#) · [Lahaina, Hawaii](#)

Do me a favor - click on this link and read this article then post a comment online. We need to get the word out and we need to embarrass the legislature into doing the right thing! If you haven't been following, there is much at stake here. If you or someone you know, owns vacation Rental Property in Hawaii and they do not live on that island, they will be forced to hire a licensed Realtor to oversee ALL aspects of their rental property. This includes bookings, sending the tax payments to the State & cutting a check for the owners after gleaning their "40% commission". Let's band together to stop this as it will ultimately hurt the economy & tourism industries in Hawaii. Read & Comment:

>

> <http://m.civilbeat.com/posts/2012/03/29/15368-under-the-radar-vacation-rental-controversy/>

[Angie Keyes](#) · [Owner/Designer](#) at [DesignWorks - Kitchen & Bath](#)

This needs to be stopped.

[Lindsay Farley Hughes](#)

Very well said. Only thing, wish my homeowner fees were \$300, more like \$700 for a 1 bedroom!

[Elen Stoops](#) · [UC Davis](#)

Lindsay, I wish mine were \$300 as well, the \$300 is for housekeeping. Believe it or not, my HO fees are just under \$800 now and going to about \$850 in a few months. I'd love to be paying only \$700! ;-)

[Karen Raymond](#) · [Calgary, Alberta](#)

Great article Elen! Thank you for helping to get this issue out to the public!

[Reply](#) · [1](#) ·

· [12 hours ago](#)

[Elen Stoops](#) · [UC Davis](#)

Thank you Karen, I hope that this will get the attention it deserves. Puzzling that something that will affect Hawaii's economy so significantly is not being picked up by the major newspapers in Honolulu and Maui. What's behind THAT??

[Joe Devane](#) · [California State University, Chico](#)

Thank you Elen. This bill is not good for Hawaii.

Chris Humphrey · [Portland, Oregon](#)

This is so true. These bill will make very bad law.

[Andrew Louis Neale](#) · Top Commenter

If one is trying to avoid taxes there is always the legal way..

For one It is entirely within the law to pay ones rent to ones landlord with United States Legal Tender Silver or Gold Coins, It is also within the law for a landlord to demand payment in lawful money and include it in there private contract with their tenants.

However most people prefer to do business with checks, credit, or paper federal reserve notes that we the public mistakenly call 'dollars' but are in fact not dollars but dollar denominated discharge notes.

The benefits of using gold and silver are many both as a legal mechanism to protect the landlords rights from infringements by the legislature and as a much needed restraint upon the speculative inflation ridden commercial economy.

When you make the choice to use gold or silver in your contracts in place of commercial discharge notes you have made one big step towards exempting yourself and your activity from their jurisdiction both in lawmaking and in taxing authority.

Gold and silver have remained a mostly stable medium of exchange for more than 3,000 years and copper for much longer. Regardless of its historic nest egg status for being a sure thing gold and silver is glaringly miss understood as an investment commodity which it should never be instead of its real status as private property.

When you use gold or silver your transactions are entirely private and you have not yet entered into commerce which then exempts you from any legislation connected to the commerce clause. However hard corporations try this trick their transactions will still be taxable for its fair market value so don't even try. But private individuals can exempt themselves but before they can they will need to re-position their status at law.

When they do this properly it is then possible to legally avoid all income taxes while making lots and lots of money but no income.

As it terns out The term "income" and "money" are not synonymous though the most common form of income happens to be money, income can also be tangible personal property and it is the connecting contracts permits licenses etc.. with the government you have agreed to over the years that has convert your gain on property into a taxable event creating the term income to describe that gain.

(Contracts w/ govt) + gain on Property = Commerce = Jurisdiction to make law = taxable event and classification of monies received as Income = Income tax.

(no contracts w/ government whatsoever) + gain on private property = private contracts

conducted with private property = No jurisdictional authority without a damage and authority established only after all jurisdictional challenges are met and so only with due process of law.

**** NOTICE ****

What I say I know with certainty because i've read the supreme courts own writings top to bottom however I do not advise you take action until you have also read these cases which i can provide citations for upon request freely in the public interest as a private reporter. Additionally council may be required also to be certain you know of all the contracts and other connecting ties you have with the government that you may have forgotten about and how you might go about extinguishing those contracts under the law. As always freedom is not free it's a lot of hard work and it certainly isn't for everybody, but from personal experience I'd like to admit it's mountains more gratifying knowing I accomplished all this without the governments help!

Also if my personal calendar is too busy I can refer you to a guy who's been to the supreme court and back several times and knows this issue of money, commerce, income and jurisdiction better than a preacher man knows his bible.

If you willfully remain ignorant of these critical legal protections you can't complain when the strong hand of government takes a significant bite out of your small enterprise constitutional questions aside.

I would however note that I personally believe this proposed law to be consistent with the Hawaii Constitution but not the federal constitution and also it most certainly will eventually turn out that federal jurisdiction over these islands is significantly lacking due to the fact that there was never a treaty of cession between the two sovereign powers.

- [Manupupule](#)

[Elen Stoops](#) · [UC Davis](#)

Thanks for your post Andrew but I don't believe we are looking for a way to avoid paying taxes legally or otherwise.

[Kara Thompson Phadael](#) · [South Windsor, Connecticut](#)

Although I am a realtor, I think this is unfair to landlords. My friend owns a property in Hawaii. She lives here in CT and manages her property and someone else's as well. She has a maintenance guy who takes care of the stuff that would require a local person. If they pass this law, it won't be worth it for her to own her property. She will have to pay fees which I'm sure will be way too high to a realtor, and the realtor will not have the same concern about who gets into the unit. If they tear up the place, the realtor doesn't have to pay for the repairs, the landlord does.

[Dianne Smith](#)

Folks, if you haven't already, please submit testimony online to the Hawaii State Legislature about this bill against off-island vacation rental owners. It is so easy to do, and becomes part of the public record. The more people voicing opposition the better because they can't ignore a huge

public outcry. Here is the link:

http://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2078

[Stacy Marceau Newman](#)

It's sad and disappointing to hear that if this passes so many property owners in this beautiful state would be forced to sell their homes. For many their dreams of a retirement in Hawaii will be crushed and they will have to take their investments and money to another state who is happy to have them.

[Ele Thomas](#) · [Budget Manager](#) at [Mesa County](#)

This article is very accurate. We too just bought our condo in 2011 and I would never have considered the investment if I knew this legislation would be coming. This will hurt the Hawaiian economy as rental rates go up visitors will go down. Please do not pass this legislation.

[Robert Derusha](#) · [L&M Radiology](#)

How does the state have the right to force PRIVATE owners to use a company they don't want or need!!!!!!!!!!!!!! this sounds unconstitutional to me. I would agree that there is something else going on.

[Kara Thompson Phadael](#) · [South Windsor, Connecticut](#)

Also, when I vacation, I never use a realtor to book, I use websites like homeaway, VRBO, craigslist etc. I would not choose to use a realtor, because I want to talk to the owner, not a third party.

Don Raymond

The previous post would have been my testimony but I had to go to my CPA to sign my tax papers so I could get them in on time thus missing the 9 am deadline for submitting testimony.

Don Raymond

That should be for hunting; criminals if they did not register. We do not go out as vigilantes and hunt criminals.

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 Husband

Organization: Individual

E-mail: husbandda@yahoo.com

Submitted on: 3/30/2012

Comments:

HB2078

What ever happened to property rights in this country? This is the worst piece of legislation that I've ever seen! Surely the state constitution of Hawaii would not allow this bill to stand.

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 Mills
Organization: Individual
E-mail: onegr8gem2@aol.com
Submitted on: 3/30/2012

Comments:

For over seven years now, I have owned a cottage in a condominium association in Ka'anapali, Maui and I am blessed to have a wonderful, conscientious representative on-island. I can't say that all out-of-state owners are so lucky. My representative is not a managing agent, she is my housekeeper/concierge. I have desperately tried to hire a rental agent during the course of the past two years. At that time, my last rental agent got out of the real estate business altogether. She sold the vacation rental properties she owned, stopped selling real estate and stopped managing other people's vacation rentals, too. Since then, no one on Maui will take my cottage because they already have too large of an inventory of "similar" properties. They feel that adding more properties would diminish the already dismal amount of bookings per property. Other companies have said that they only take "high end" properties.

These agents charge around 25-30% to handle your property. I am currently renting my place for an average per night fee of around \$125/night, plus State of Hawaii tax. Horrible! Just a few years ago I was charging a fair market rate of over \$200/night! My friends and family rate was \$165/night which was break even for me on a nightly basis. I have NEVER made a dime on my cottage in 7 years! I was only starting to see the light of day when the rental rate pushed over \$200/night. I have dumped over \$100,000 into my place between repairs & upgrades and making ends meet on the monthly bills. I also put \$240,000 down on it when I bought it. I am into that place for at least \$340,000, plus the \$250,000 remaining on the mortgage.

After busting my butt to keep it rented and only being able to stay out of foreclosure by the skin of my teeth, I don't think I am willing to put my cottage's destiny in the hands of anyone else. The only reason I have been able to keep it rented 70% of the year is because I am doing it myself. No one, and I mean no one, would put in so much effort to maintain a completely and utterly negative cash flow situation like this cottage is. If this bill passes, I am out-of-business. I cannot afford to let someone else be in control of renting my place. I am very quick to respond to inquiries. I am always adjusting the price with the current market conditions (time of year, amount of interest). No one will do this stuff. No one will care as much as I do. I spend hours every day working at keeping my cottage and my reward is to pay money out of my pocket to keep this place going.

With an agent in charge, they would want to raise the nightly rate to cover their percentage, so there would be a lot less bookings. On top of that, I would have

to pay them 30% for their services. Even if my bookings somehow managed to stay at the same rate of 70%, where am I going to get an additional say \$10,000 to pay the agent for their services? I am already in the hole probably \$500/month. I would have to charge over \$200/night to break even with the added cost of a real estate agent. That is without any repairs or upgrades getting done. Hawaii is already hurting because so many less tourists are spending the money to travel so far from home. The tourists who do come spend most of their money on airfare, accommodations and car rental. There is very little money left for them to spend on trinkets, meals out and costly tourist attractions. I know that the amount of money spent in Hawaii per tourist per day has sharply decreased over the past 4 years. They aren't eating lovely fresh fish dinners at ocean-side tables anymore. They buy peanut butter, jelly and bread and have a cheap picnic on the beach. Now is not the right economic time to pass a bill like this one. Thank you for your consideration.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: April Fullmn
Organization: Individual
E-mail: airons55@yahoo.com
Submitted on: 3/30/2012

Comments:

HB 2078 - OPPOSE

As a property owner I oppose this bill. In effect the State is going to drive up costs for all owners. The cheats will keep finding ways to cheat, the rest of us get left with more costs. There are already laws and rules on the books to catch the cheats this Bill not be any more effective but it will cost everyone more. I as an owner will certainly consider liquidating my property and taking my money elsewhere, because a 30% rise in costs is unsustainable for me and I am sure thousands of other owners. If you force this upon the vacation rental community you will most certainly see your tax revenues drop as legitimate and honest owners who have been abiding by the rules and paying their taxes will simply close up shop and leave. No one can sustain a 30% rise in costs at a drop of a hat. You will end up with more properties in foreclosure and thus more stress on all the businesses involved in the vacation rental business.

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

Conference room: 229

Testifier position: Support
Testifier will be present: No
Submitted by: David DiBerardino
Organization: Individual
E-mail: furudino@hotmail.com
Submitted on: 3/30/2012

Comments:

As a liscensed Hawaii real estate sales person, a Kailua property owner and a retired executive in the lodging industry I urge you all to approve this bill. These tyoes of rentals must be regulated and taxed accordingly. Currenently there is no way to know if they are renting or having everyone that stays there just say that they are relatives of the owner who has graciously allowed them to use the house for free. Just ask inspector David Kalai how often this happens when checking on an illegal rentals. There is an ongoing problem on Oahu of illegal vacation rentals. This is no surprise to any of you. This steals money from the legal vacation rentals, those who actually have permits, from the hotel and condos, and the many Hawaii residents that invested in these condos (condo hotels), from the workers who have hours cut, get laid off or just don't get hired as hotel occupancy is affected by these rentals, and lastly our state is cheated of tax dollars as GET and TAT is not paid. I feel that you have liability to make sure these tax dollars are collected and a obligation to the residents/tax payers/voters to not only collect these taxes for our county/state as most of these property owners do NOT reside in Hawaii but also to help return to us our neighborhoods

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 Mackey
Organization: Individual
E-mail: mackey_0529@yahoo.com
Submitted on: 3/30/2012

Comments:

I OPPOSE HB2078 HD2, SD1 Amended

As a property owner I find it unrealistic and unreasonable to have the state force an independent owner to use services that I do not need. I pay my various taxes, on time and in full every month. By forcing the use of the services of a broker or property management company as tax collectors in order to prevent cheating by a minority in the community is wasteful for all parties involved. To disguise this as protection for the vacationer is inappropriate. In most situations that arise out of the emergencies neither the broker nor the management company can respond any quickly then owner that has gone to the trouble of setting up proper support for their unit. After all one unsatisfied customer for these owners leads to wide broadcast of poor service. It is not in any owner's interest to attract that type of attention.

There is a better way to approach this: issue permits which have to be displayed in all advertising. If the permit number does not match the owner's information in the states records then you have the first step in enforcement for follow up.

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 Cornell
Organization: Individual
E-mail: rickonmaui@yahoo.com
Submitted on: 3/30/2012

Comments:

Aloha, I'm opposed to the bill because I think it puts an excessive financial burden on condo owners who are already barely making their mortgage payments. I believe it will really hurt the economy as many owners will have to sell. This will dump many condos on the market and prices will plummet. It will cause a huge burden on Hawaii's already burdened economy. Also, many of the owners are not from the US and they do not have a direct vote or say in this bill. It also will affect many of the people, like me who work for some of these owners. They will have to cut back on services that many of us depend upon for our livelihood. Do not punish the tax paying owners to catch the few that don't pay. Mahalo, Rick Cornell

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mary Mackey
Organization: Individual
E-mail: miles4tn@yahoo.com
Submitted on: 3/30/2012

Comments:

I oppose HB2078 HD2, SD1

I have the right to manage my own property and this bill infringes on my rights. It is wrong!

There is no justification for me to have to pay rental commissions to a stranger when I do all the work to get renters and tenants.

I have never skipped a tax payment and I am sure most homeowners are the same way.

There are much better ways to make sure everyone pays their taxes, but this one is preposterous.

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 Butler
Organization: Individual
E-mail: zeppelin949@yahoo.com
Submitted on: 3/30/2012

Comments:

HB2078 HD2, SD1 is the WORST idea I have ever heard.

I worked for years and years to get my condo in Maui and it is very hard to keep it these days. There is allot of competition for renters.

If I have to pay an agency or real estate office part of my rental income, I won't be able to keep my condo. Me and lots of people will end up in foreclosure.

My taxes are paid – I don't need a real estate officer to look over my shoulder.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandy Lander
Organization: Individual
E-mail: inbox@gt2go.net
Submitted on: 3/30/2012

Comments:

HB2078 is the wrong way to solve the problem with collecting taxes. I OPPOSE the bill.

My neighbors and I can barely pay our taxes, mortgages and HOA fees. If this bill went into effect it would help all the realtors and cost owners hundreds of dollars a month.

It must have been a realtor who proposed the bill. Thank you, but I don't need their hand in my pocket. I pay my GET/TAT taxes.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tim Bryant
Organization: Individual
E-mail: air2sea@gmail.com
Submitted on: 3/30/2012

Comments:

OPPOSING HB2078:

I absolutely OPPOSE the bill. It does not differentiate between those who pay the taxes due and those who do not. It just PENALIZES us all.

This would be a negative change that would cause financial distress to many owners throughout the state.

Just because a few owners do not pay 100% of their taxes does not mean all of us should have to sacrifice our hard-earned rental income to management agencies or 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: Terri Nader
Organization: Individual
E-mail: mystuff@horizonbound.com
Submitted on: 3/30/2012

Comments:

Oppose: HB2078 HD2, SD1 Amended

As a property owner I oppose this bill. In effect the State is going to drive up costs for all owners. The cheats will keep finding ways to cheat, the rest of us get left with more costs. There are already laws and rules on the books to catch the cheats this Bill not be any more effective but it will cost everyone more. I as an owner will certainly consider liquidating my property and taking my money elsewhere, because a 30% rise in costs is unsustainable for me and I am sure thousands of other owners. If you force this upon the vacation rental community you will most certainly see your tax revenues drop as legitimate and honest owners who have been abiding by the rules and paying their taxes will simply close up shop and leave. No one can sustain a 30% rise in costs at a drop of a hat. You will end up with more properties in foreclosure and thus more stress on all the businesses involved in the vacation rental business.

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: George Nader
Organization: Individual
E-mail: george@horizonbound.com
Submitted on: 3/30/2012

Comments

Oppose: HB2078 HD2, SD1 Amended

As a property owner I oppose this bill. In effect the State is going to drive up costs for all owners. The cheats will keep finding ways to cheat, the rest of us get left with more costs. There are already laws and rules on the books to catch the cheats this Bill not be any more effective but it will cost everyone more. I as an owner will certainly consider liquidating my property and taking my money elsewhere, because a 30% rise in costs is unsustainable for me and I am sure thousands of other owners. If you force this upon the vacation rental community you will most certainly see your tax revenues drop as legitimate and honest owners who have been abiding by the rules and paying their taxes will simply close up shop and leave. No one can sustain a 30% rise in costs at a drop of a hat. You will end up with more properties in foreclosure and thus more stress on all the businesses involved in the vacation rental business.

Dear Legislature:

I am opposed to **HB2078**. 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 HB2078 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 of 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

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

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Anita Cagasan
Organization: Individual
E-mail: anitacagasan@gmail.com
Submitted on: 3/30/2012

Comments:
Committee Members,

I am an independent contractor that relies upon these vacation rental owners to support my cleaning business. I have put my blood, sweat and tears into building this business over the past 11 years. I have 2 small children that I support and clean during the hours that they are in school. I have put my heart and soul into all that I clean and have owners and vacationers that appreciate all that I do.

I strongly oppose a bill that will require vacation rental owners to go through a rental agency or realtor. As a cleaner, I have seen first hand what a terrible job they do handling the condos and their employees. They charge the owners so much money and do not appreciate the workers. The cleaners are forced to have a large quota of condos done in an unreasonable amount of time for very little money. This means, we would get less income to work harder and have condos that are not cleaned well. These cleaners currently have to work 2 or 3 jobs, just to make ends meet. Where does that leave time to spend with our families or be able to provide for them?

Ultimately, you will end up with vacation rentals companies that raise rental rates and people won't be able to afford to travel here. If these condos owners are forced to go with these rental companies that overcharge, you will no doubt have unhappy guests who choose not to return again the following year. Hawaii is reliant on tourism and should be our number one priority. Without them we would not survive.

Please, do not push this bill through.

Sincerely,
Anita Cagasan

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 Shields
Organization: Individual
E-mail: terri@msn.com
Submitted on: 3/30/2012

Comments:

I am a long time and frequent visitor to all of the islands. I was ready to make an offer to purchase a unit when this legislation emerged. My hope had been to have a retirement home in the future. These plans have now ceased.

The purpose of the bill is to ensure enforcement of transient accommodation and excise tax collection. It is also to provide a "Consumer Protection Measure." Enforcement of tax collection is necessary and appropriate. However, the requirement that consumers need protection only from non-resident owners is ludicrous. This is merely a ploy used to generate panic by the property management/real estate industry.

The bill has a section a section to exempt a nonresident owner from employing a licensed estate broker or salesperson. Obtaining a clearance from the tax department is not an issue as it forces owners to demonstrate that they have acquired the appropriate business licenses and are in compliance, it also requires Federal Form 1099. How is the first year owner supposed to handle this when there is no previous year form? This punishes those who properly report and submit their taxes.

I have personally had poor experiences when dealing with rental companies rather than directly with the unit owner. I believe that continuing to hamper owners of residential units will have a negative impact on the tourist economy of Hawaii. You are removing a valid income from local workers to transfer it to larger companies. Use of rental agents will also increase the daily rental amount per unit, making Hawaii less accessible to tourists. In this depressed economy, there are currently thousands of units for sale. Making this unaffordable for owners will cause a greater influx of units for sale or going into foreclosure.

The Attorney General has suggested that under the Commerce Clause, the Equal Protection Clause and the Privileges and Immunities Clause of the US Constitution: each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of in-State residents. This legislation would need to apply to ALL owners.

I am opposed to HB2078 and HB1706 . My cost to rent Hawaii vacation condos/houses will go up substantially and I may have to rethink our family's vacations to Hawaii.

We have had great experiences renting from owners and have found owners efficient and accurate to deal over the past 30 years of renting.

I have always dealt with owners that have charged us Hawaii taxes when renting.
Please do not let the Hawaii real estate lobby dictate how residential property is rented to non-Hawaii residents.

Thank You Sincerely,

Glen Aronson

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