

On 2012-03-15, at 4:24 PM, mailinglist@capitol.hawaii.gov wrote:

> Testimony for TSM 3/22/2012 1:15:00 PM HB2078

>

> Conference room: 224

> Testifier position: Comments Only

> Testifier will be present: No

> Submitted by: Adam Leamy

> Organization: Individual

> E-mail: aleamy@northwestpublicaffairs.com Submitted on: 3/15/2012

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> Comments:

> Dear Senator Mercado Kim, Committee Members, and Members of the House and Senate:

>

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

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> HB2078 HD2 “Requires that all advertisements and solicitations in any medium for transient accommodations to conspicuously display the registration identification number or the website address for a website containing the registration identification number. Requires that any advertisement or solicitation that appears on any website provide contact information for a local agent if the operator of the residential property resides off-island or out-of-state.”

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> As NAFTA specifies (noting that “Party” means the United States, Mexico, and Canada):

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> NAFTA Article 1102: National Treatment 1. Each Party shall accord to

> investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

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> 2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

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> 3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.

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> 4. For greater certainty, no Party may:

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> (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or

> (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

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> I note that HB2078 HD2 makes a distinction between Hawaii 'residents' and, in my case, Canadians. It would it seek to afford "the most favourable treatment" to 'residents' and impose additional establishment, acquisition, expansion, management, conduct, and operation, and sale or other disposition requirements on Canadians by ascribing to Canadian investors the term "nonresidents." This would appear to offer significant contrast to the commitments and protections embodied in NAFTA Article 1102: National Treatment.

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> It is my continuing hope that accurate information on the NAFTA national treatment front might help shape the deliberations and debate by the Hawaii State Legislature. That would be positive, and it is in this spirit that I am contributing.

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

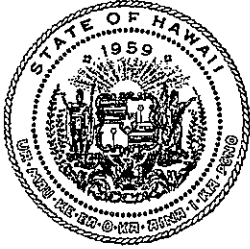
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> Sincerely,

>

> Adam

> <03-15-12 - Leamy Testimony on HB2078 HD2.pdf>



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

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

House Committee on Tourism
Thursday, March 22, 2012
1:15 p.m.
Conference Room 224

The Hawai'i Tourism Authority (HTA) supports the intent of H.B. 2078, H.D. 2, which would require all advertisements and solicitations for transient accommodations to conspicuously display the registration identification number of each operator or plan manager.

H.B. 2078 will facilitate the identification of undocumented transient accommodations and aid compliance with the transient accommodations tax law. We do recognize that this may be burdensome for property rental management programs which represent hundreds of independent vacation rental properties, such as Outrigger Enterprises, Classic Resorts, and others.

In 2005, the HTA contracted for an investigation into undocumented vacation rentals and bed and breakfast operations in Hawai'i. The results of that investigation, where several thousand undocumented accommodations were identified, were presented to the Department of Taxation, the Department of Business, Economic Development and Tourism, and the counties to take administrative and enforcement actions necessary to ensure compliance with state laws and county ordinances. As such, if the objective of H.B. 2078 is to identify legal transient accommodations, the provisions of H.B. 2078 may not be necessary. The Department of Taxation and the counties already have much of the information that the bill is asking for. It becomes a matter of manpower and funding to enforce the law.

Thank you for the opportunity to offer these comments.