

From: Julie Zweber [julie.zweber@cox.net]
Sent: Saturday, March 10, 2012 7:19 PM
To: TOUtestimony
Subject: SB 2089

To Whom It May Concern:

I have been the owner of Napili Point Resort, B11, since 1996. The property is located at 5295 Lower Honoapiilani Rd #B11, LaHaina, Maui, HI. I recently became aware of SB 2089 wherein a third party will be somehow mandated to handle rentals on my property.

I maintain my rentals and taxes in full accordance with Maui/HI Law, and drive tourism far more rapidly while organizing the rental process on my own. Previously, B11 was rented under Napili Point Resort's LLC, and the rentals were sparse and assigned very high fees for the service that cost me money every month. Once I severed that arrangement and began handling rentals independently, the process became successful and I was able to break even with my mortgage, association fees, and other associated costs.

Not only will the insertion of a third party increase my costs to rent, it will detract from the tourism that Maui condos drive...as I'd have to pass that cost onto the renter, and become less competitive.

I find this bill to be incomprehensible and anything but sound. It will have a negative effect on all parties concerned, and I really would like to know what's driving this action, and be privy to any justification for adding a completely unnecessary party to an otherwise smooth transaction.

Sincerely,

Julie Zweber
5295 Lower Honoapiilani Rd, B11
Lahaina, Maui, HI

Julie Zweber
405-990-1452

Fax: 877-809-0859

julie.zweber@cox.net<mailto:julie.zweber@cox.net>

<http://www.vrbo.com/257363>

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: D. Peterson

Organization: Individual

E-mail: Debi.b.peterson@gmail.com

Submitted on: 3/10/2012

Comments:

Oppose!!!!!! This is a major detriment to all condo owners in Hawaii

From: Tracy [mileticht@yahoo.com]

Sent: Saturday, March 10, 2012 7:45 PM

To: TOUtestimony

Subject: *****SPAM***** Opposed to SB2089SD1

Hello,

I am opposed to this new bill.

For the last 5 years, my family have been visiting Maui in the winter, from 12-14 nights. At each visit, we have rented from a private individual. In addition, we have always been required to pay the taxes. Our experience has always been wonderful. If this bill passes, and the prices are increased by 25-40%, I highly doubt that we are likely to return due to the additional expense. In addition, I do not want to deal with a rental agency. If I did, I would have already used one.

I would highly recommend you seriously reconsider this. I can only foresee this decreasing the tourism that is indeed so valuable.

Concerned citizen,

Dr. Tracy Read

Sent from my iPad

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Richard and Diane Harr

Organization: Individual

E-mail: dianeharr@msn.com

Submitted on: 3/10/2012

Comments:

As a non-resident condominium owner, I oppose SB 2089 SD1 Amended because it will reduce my ability to find renters which will, therefore, reduce my income. That will also reduce the taxes I pay to the State of Hawaii.

From: timtoni@alaska.net [timtoni@alaska.net]

Sent: Saturday, March 10, 2012 7:33 PM

To: TOUtestimony

Subject: Opposing SB2089 SD1 Amended

I am writing to oppose SB2089 DS1 Amended. My husband and I have been traveling to Hawaii for over 35 years, and have found the use of VRBO a good means to find housing while on the islands. I appreciate being able to contact the owner of the units I rent. I have also used real estate property mangement companies and have been less than satisfied with both the units and the servicing of those units when problems have arisen.

As a resident of Alaska, I can vouch that the Alaska legislature has tried numerous times to enact legislation with residency requirements -- and to date, all have brought lengthy legal battles. With the current state of the Hawaiian economy, can the State of Hawaii really afford to get into such a battle? It seems to me that you have bigger problems than trying to protect a few real estage brokers.

Sincerely,

Toni Stevens

1427 P Street

Anchorage, AK 99501

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Tracy Lipinski

Organization: Individual

E-mail: Jkipinski@charter.net

Submitted on: 3/10/2012

Comments:

I travel to Maui just about every year. Because of websites like VRBO I can stay in a reasonably priced condo and spend my tourism dollars at upscale restaurants, excursions and shopping. If you limit my expenditure to lodging, I'll be forced to go to a beach instead, just to save money. Don't let the rich lobbyists take money for themselves and the realtors. This bill is a bad idea.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nancy Bertson
Organization: Individual
E-mail: nbertson@yahoo.com
Submitted on: 3/10/2012

Comments:

HB 2089 has nothing to do with TAT and excise taxes being paid and everything to do with greedy realtors making a money grab. After watch the House Finance Committee member grill the state taxation representative at the HFA hearing, it became apparent that this bill had just been thrown at the wall with the hope it would stick. The state tax person at the meeting could come up with no number or studies at all to demonstrate why HB1707 was needed or even whether it would do anything positive for anyone but Hawaii realtors and their vacation rental businesses. Unless the state taxation department has suddenly found supportive figures, the same would hold true for SB2089.

This bill would have a negative ripple affect throughout the Hawaiian economy and would mean a loss of jobs and businesses at a time of economic adversity.

Realtors rent these units at significantly higher rates. This would force many visitors to vacation somewhere more affordable, not Hawaii. Many jobs would be negatively affected: Airlines and any shops and services that depend on tourism would lose income and their employees would lose jobs, as would condo hotel employees.

The good income that independent housekeepers earn by taking care of rentals by owner would be lost. Even if these people found jobs cleaning for realtor's vacation rentals, their incomes would be drastically reduced.

Visitors that do end up renting in the islands through realtors would likely have less to spend per day on other aspects of their stays, especially in this economy.

Property values would drop even further as owners endeavor to rid themselves of properties that they have no control over to whom they rent and their rental incomes are reduced even more than they already are in this economy. Most of us depend on rental income to pay our our Hawaii second homes/condos mortgages, maintenance, and homeowner dues affordable.

Buyers would find Hawaii second homes less attractive when they find they will not be able to rent out their own properties without a maze of red tape.

We and every vacation rental owner we know, pay our TAT and excise taxes. The realtors we used in the past and some friends use now, have nothing to do with whether these taxes get paid.

Please say no to greedy realtors and think of the Hawaii people and their economy. Please vote no on SB2089.

Mahalo,
Nancy Bertson

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose

Testifier will be present: No
Submitted by: Ed Clarke
Organization: Individual
E-mail: clarkepe@hotmail.com
Submitted on: 3/10/2012

Comments:

This bill would impose unnecessary restrictions on the renting of condos. These are subject to too many many taxes and restrictions.

Tourism Committee and Members of the Hawaii House of Representatives

RE: Bill # SB2089-5D1

We have vacationed in Maui for over 35 years and were vacation renters for most of that time. As vacation renters we rented through what were considered to be the upstanding real estate companies in West Maui. These experiences which involved two different, quite successful real estate firms who are still doing business in Maui today were most unsettling, resulting in ruined vacations for us due to their lack of professionalism and honesty.

My husband and I purchased our condo unit on Maui over 9 years ago. During the first years of ownership we did not rent out our unit, but as our maintenance fees skyrocketed from \$650 per month to over \$1,900 per month, we realized that we had to start renting to vacationers in order to pay the property taxes, the rising condo fees, the continuous new assessments, and we needed to upgrade and maintain the appearance of our unit. We always pay our general excise and use taxes and the transient accommodations taxes and submit the proper forms as required by the State of Hawaii.

We feel that our condo is our second home. We are very careful in that we connect with our clients and understand their expectations. We take pride in our unit and do our best to insure that our clients are comfortable. We do not rent our unit if the building is undergoing major construction (which, unfortunately, has often been the case). Due to our past experiences, we cannot consider putting our unit in the hands of a real estate/management company. In addition, we are aware of other more recent instances which have taken place involving real estate/management companies' misuse of other owners' units. This further serves to convince us that giving up any control of our unit is not a feasible action for us to take.

How the State of Hawaii can assume that real estate agents are more honest and diligent than a non-resident homeowner is astonishing and insulting. If this discriminatory bill passes, the State of Hawaii is putting us, as Homeowners, in an untenable position, and we will be forced to sell. This bill is quite simply a ruse by the real estate companies to gain and maintain control of the rental market. There are many potential problems which can result in the passing of this bill, there can be no protection for the Homeowners, who would have no recourse as it takes years to mediate and resolve disputes in cases such as this, and as older homeowners, we can afford neither the time nor the legal fees which any dispute would entail.

Please vote NO on SB2089-5D1.

Beverly and Steven Lecon, Kaanapali Beach, Maui, Condo Homeowners

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No
Submitted by: Linda Bornstein
Organization: Individual
E-mail: linda@coastalfantaseas.com
Submitted on: 3/10/2012

Comments:

I am appalled that our respected leaders are considering this unconstitutional bill! To single out non-residents is deplorable! Furthermore, it advances the financial gains of a select few while potentially causing CATASTROPHIC financial hardship and ruin for thousands of people who likely will lose their investment because they could not afford the added costs of paying a manager upwards of 40 - 50% of rentals obtained. In turn, this would put such an enormous blight on the state of Hawai'i that it would take decades to recover from it. I reside in California and the foreclosures here have been nothing short of devastating to observe! This MUST NOT happen to Hawai'i, too!! And who would ultimately purchase these foreclosed homes and condos? Residents from another state would no longer be interested and the likelihood that the residents of Hawai'i would be in a financial position to purchase them is unrealistic. And what would happen to tourism? Does Hawai'i not rely on yearly tourism to support its' economy?

This bill would cause irreparable damage. When the home next to YOU falls into foreclosure and sits vacant for years and YOUR property value has decreased because of it, you will certainly wish you had voted against this bill.

It is not too late - Vote NO on SB 2089!!!

Respectfully submitted~

Linda Bornstein

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Steve Strehlau
Organization: Individual
E-mail: Steves@whidbey.com
Submitted on: 3/10/2012

Comments:

We do not oppose collecting taxes. We do know that it will reduce tourism because it will increase costs to visitors and they will take their tourist dollars elsewhere.

We feel that it also discriminates against non-residents.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Laura Strehlau
Organization: Individual
E-mail: 2dognite@whidbey.com
Submitted on: 3/10/2012

Comments:

We do not oppose collecting taxes. We do know that it will reduce tourism because it will increase costs to visitors and they will take their tourist dollars elsewhere.

We feel that it also discriminates against non-residents.

From: Leslie Cobos [lrcobos@earthlink.net]
Sent: Saturday, March 10, 2012 7:00 PM
To: TOUTestimony
Subject: Bill SB2089 SD1 - OPPOSED!

I am opposed to this bill.

This will cut tourism and is against all American principles. Management companies are a disservice to owners. They do not take care of properties. I used to rent from them and were poorly kept. I will only rent directly from the owner.

If this passes we will not come back to Hawaii again.

Renee Sullivan
Palm Desert, CA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jamie Jenneve

Organization: Individual

E-mail: jjenneve1@verizon.net

Submitted on: 3/10/2012

Comments:

I oppose this bill for the following reasons:

1. Concern that bill is unconstitutional as it discriminates against off-island owners by increasing costs of management to one group of owners creating unfair competition. Contact info is already provided by non resident owners everywhere they advertise. This is restraint of trade and creates a defacto monopoly on the behalf of realtors/property mgrs. How are non resident owners more likely to not pay taxes or care for their properties than resident owners? There is no information to indicate this is true. An Owner should be allowed to rent and manage their own property. The market place will filter out those not doing a good job just as it has filtered out management companies who don't do a good job.

2. Enforcement of current regulations and increasing Education for owners will be more effective then creating new legislation that muddies the waters. NON-LAW ABIDERS WHO ARE NOT COMPLYING WITH EXISTING TAX LAWS ARE NO MORE LIKELY TO COMPLY WITH A NEW LAW.

3. NO TIME TO CREATE MEANS TO ENFORCE or REGULATE or EXEMPT. An attempt to offer non resident owners who are currently complying with tax payments is unclear and would not offer relief in the time frame the bill indicates for completion. More time is needed to consider this process.

4. This law WILL REDUCE REAL ESTATE VALUES, TOURISM COMMERCE and HURT LOCAL SERVICE PROVIDERS WHO SERVICE THE TOURISM INDUSTRY. Rather than protect the consumer and residents this bill will force prices up to the consumer and numbers of accommodations down. Many current owners will sell or walk away or turn to long term rentals. This will depress the housing market yet again. The net effect will be lower tax revenue, not increase it and cause terrible hardship to thousands of staff employed by owners to clean, maintain and care for their homes.

Finally, if you pass this bill, I anticipate very near term foreclosure, as the property cannot handle additional expenses imposed by the government.

Sincerely,

Jamie Jenneve

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jeff Jenneve

Organization: Individual

E-mail: vacation@islandadventures.com

Submitted on: 3/10/2012

Comments: WHILE WE SUPPORT THE STATES RIGHT TO COLLECT TA AND GE TAXES THERE ARE SO MANY NEGATIVE CONSEQUENCES TO THIS BILL THAT WE RESPECTFULLY ASK YOU TO VOTE NO AT THIS TIME.

This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets
- More study is needed by academics, accountants, lawyers and tourism personnel.

- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.
- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo unit that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner.
- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a defacto monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system that lists both owner-managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.)

- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by impersonal management firms. The experience of connecting the owner to the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.
- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mis-treat their guests. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.
- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner responds to dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.
- Visitors will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '
- Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.
- Conclusion - We support the State's right to collect its share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units so that the tax filings can be monitored and non-paying owners brought into compliance. Owners who are already in compliance with State laws, and who pay their taxes, should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and PLEASE VOTE NO on SB2089 SD1.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rob Jenneve
Organization: Individual
E-mail: motuman@cox.net
Submitted on: 3/10/2012

Comments:

PLEASE VOTE NO ON SB2089 SD1 TO AVOID MASSIVE COLLATERAL DAMAGE TO THE STATES ECONOMY

Dear Representative,

I am a non-resident property owner of a condominium property in Maui. We are one of many owners who purchased our property at the peak of the real estate market and are struggling to make our payments on a monthly basis in the subsequent economic decline.

We currently have an on-site maintenance, cleaning and guest assistance, we have a Hawaii Tax ID number, and we have submitted the required transient accommodation taxes and general excise taxes in a timely manner during our entire ownership period.

Due to the extreme economic duress we are experiencing the added expenses imposed by the Passage of SB 2089 will surely drive us into foreclosure. In discussing this issue with other property owners I believe there are many, many others in the same situation.

Most property owners forced into (artificially inflated) management contracts by this bill will either have to sell or abandon their properties, or enter expensive and protracted legal battles with the State.

PLEASE DO NO HELP PRECIPITATE ANOTHER WAIVE OF REAL ESTATE FORECLOSURES AND POSSIBLE REDUCTION IN HAWAII VISITOR NUMBERS BY PASSING THIS BILL.

I respectfully request that you reconsider the unintended economic consequences of SB 2089, and vote NO until a more carefully crafted bill can be constructed. We understand the State's need and right to collect taxes, but this is not the time to impose a new set of well meaning but damaging regulations, which will have a negative effect on Hawaii's economy, real estate market and tourism industry.

If you feel that action must be taken at this time I would respectfully request that:

- 1) Property owners that currently have a Hawaii State Tax ID number, and can show they have been making their TA and GE taxes in a timely and equitable manner, be exempted from this bill. There must be a clear path to this exemption, not the ambiguous proposal of submitting Federal Form 990 to the Real Estate Commission.

or

2) You abandon this bill and redraft another which focuses on requiring vacation rental owners to obtain a Hawaii State Tax ID number, enforces the collection of the appropriate GE and TA taxes from property owners, enforces current laws already on the books. This would have the desired effect of collecting the tax revenues due to the state, without negatively affecting owners that are already in compliance with the law.

Please consider the fragile economic condition of the Hawaii's tourism industry and real estate market before proceeding with this Bill.

Sincerely,

Rob Jenneve
islandadventures@cox.net
805-683-0488

From: Cheryl Miller [mailto:lynncherylm@sbcglobal.net]
Sent: Saturday, March 10, 2012 8:06 AM
To: TOUtestimony
Subject: Re: Testimony of Maui Property Owners

The bill we are referring to is 'SB2089'. Thank you.
Lynn and Cheryl Miller

From: Cheryl Miller [mailto:lynncherylm@sbcglobal.net]
Sent: Friday, March 09, 2012 11:37 AM
To: TOUtestimony
Subject: Testimony of Maui Property Owners

We are property owners in Maui, and are VERY conscientious about ALWAYS paying our GET & TA tax. We bring a lot of tourist dollars to HI, both by our personal use of the condo as well as the encouragement of others who use our property. We CANNOT afford to pay a management company a part of our rental income and still keep the property. With all the costs on the rise in Hawaii, we barely operate in the black, and often go into the red. Should you require this from us, we will be forced to sell our Hawaii property, and spend our tourist dollars in Mexico, a very affordable, and increasingly appealing alternative to the unfriendliness of Hawaii's growing greed. Please do not pass this legislation.

Thank you for your consideration of this testimony.

Cheryl and Lynn Miller
12430 Pine Crest Drive
Grass Valley, CA 95949
Owners of property in Kamaole Sands, Kihei, Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robin Jenneve
Organization: Individual
E-mail: islandadventures@cox.net
Submitted on: 3/10/2012

Comments:

PLEASE HELP PREVENT A REDUCTION IN HAWAII VISITOR NUMBERS AND QUALITY OF EXPERIENCE BY VOTING NO ON SB 2089.

As travel agency owner specializing in Hawaii Travel for the past 20 years I ask that you please consider the potential negative effects will SB 2089 will have on visitor numbers to Hawaii.

There is a massive and effective online marketing campaign promoting travel to Hawaii that reaches millions of viewers daily, in the form of websites such as VRBO and FlipKey. Every day tens of thousands of condo owners are promoting travel to Hawaii all over North America and beyond. This market is also increasingly efficient as visitors are now able to leave online feedback about their Hawaii Condo rental experience. As we have seen in other parts of the industry the capability for timely, online feedback will effectively help weed out the "bad apples" among vacation rental condos over time.

In fact, in my 20 years in the travel industry I have seen vacation condo management shift from in house management, to a combination of inside & outside management firms and rental agents, and the more recent proliferation of owner managed units. Having experienced all types of condo management over the last 20 years I can conclusively state that the rental units in the best condition and those offering the best amenities are most often those managed by conscience, caring and considerate owners. No management company will ever care for a rental unit with the same commitment and attention to detail as a dedicated owner.

OWNER-MANAGERS FOSTER GOODWILL AND HELP MAKE VISITORS PART OF HAWAII'S EXTENDED OHANA. TRAVELERS IN TODAY'S INCREASINGLY IMPERSONAL ONLINE WORLD APPRECIATE AND RESPOND TO THIS PERSONAL CONNECTION WITH HAWAII.

In 2012 we are increasingly seeing mainland clients balk at travel to Hawaii due do to high airline ticket prices. According to industry projections airline fares will likely continue to increase with fuel prices, and the end of this trend is nowhere in sight.

Any additional expenses that vacation condo owners incur (via additional mandated and possibly inflated management costs) will have to be passed along the renters if property owners wish to remain solvent. As we have observed in previous poor economies, any increase in travel costs (accommodation or air rates) will have the effect of reducing visitor numbers.

I respectfully request that you reconsider the unintended economic consequences of SB 2089 NO. This is not the time to impose a new "tax" in the form of mandated and perhaps artificially inflated management expenses that could negatively impact the fragile Real Estate and Tourism Industry in Hawaii.

Laws are already on the books that require the taxation of properties used for transient accommodations. The citizens of Hawaii would be better served via enforcement of current rules and streamlining current procedures, rather than adding economic burden to property owners that are already in compliance by inflating management costs.

Sincerely,

Robin Jenneve
Island Adventures Travel
805-683-0488

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rose Gegner
Organization: Individual
E-mail: kauaibeachrental@hotmail.com
Submitted on: 3/10/2012

Comments:

I strongly oppose this bill. If it passes and I have to use a property management company to handle my vacation rental I will lose my property. I collect and pay my taxes to the state as required by law. I don't make much after the property management company's monthly maintenance fee is paid, and if they take over managing my rental unit they are basically being handed a license to steal. They currently charge 40 to 50% to owners, and none of the owners who are managed by the company make any money. Only the people like us, who manage their own rentals, make a profit. If this bill passes I will be forced to sell my rental property as will many others. The market will be flooded and property values, which are making a comeback, will be forced down again and only big business will come out ahead. It's a bad bill being pushed only by those who stand to profit from it. More lose than win with this bill -- it's bad politics and hurts the little guys like me who pay their taxes and love Hawaii.

March 9, 2012

TO: Committee on Tourism
Representative Tom Brower, Chair
Representative James Kunane Tokioka, Vice Chair

FROM: Kevin J. Blair
Board Member
Various Hawaii Timeshare Associations

DATE: March 12, 2012
Conference Room 229
9:30 a.m.

RE: SB2284, Relating To Hawaii Revised Statutes Section 514E

Chair Brower, Vice Chair Tokioka and Members of the Committee:

I am providing this letter to strongly OPPOSE SB 2284 which will allow plan managers of timeshare associations to distribute the names and addresses of timeshare owners to other owners. The Hawaii timeshare associations in which I am a Board member have thousands of owners that were told when they purchased that their personal identifiable information would be protected. The State of Hawaii has protected these owners right to privacy for decades and, currently, Congress is addressing several bills that will increase the obligations of businesses to protect an individual's personal identifiable information. With the Internet and email, a list of timeshare owners' personal identifiable information can be sent to thousands of people instantly. Now is not the time to reduce the protections for these owners but to make such protections stronger.

Another tremendous concern from owners is the fear of being inundated with repeated sales calls from timeshare resale companies and travel clubs from across the nation. The resale companies have caused such damage in the State of Florida that the State recently enacted a comprehensive resale law. We don't want to expose our owners to these unscrupulous activities.

Lastly, I am not aware of any other state that permits this access to personal identifiable information of timeshare owners. Hawaii has always been a leader in protecting individuals and should continue to be the leader. Accordingly, I hereby request that you DEFER SB 1483.

Thank you.

Kevin J. Blair

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: yeffi vanatta
Organization: Individual
E-mail: yeffi.v@gmail.com
Submitted on: 3/10/2012

Comments:
Aloha,

I am an owner of a townhome at Waikoloa Beach Resort. I bought my townhome in 2006, at the height of the housing market. I interviewed many realtor / property managers on the island and hired a realtor firm at Wiakoloa Village to manage my rental property. After six months, i fired the agency for gross mismanagement. The firm was unresponsive to inquiries directed at my property. The cleaning crew was random and items went missing. When i sent replacements, the box was stored unopened in the unit. Guests would arrive to find the unit locked with no one to contact. I was charged for supplies and expenses performed for other units. In short, this was a nightmare. When I terminated my connection with this realator, I hired a manager who was dedicated to my unit and servicing my guests. Since 2006, I have paid the following in tax revenue to the state of Hawaii:

2006 \$3018
2007 \$4795
2008 \$2434
2009 \$1870
2010 \$2569
2011 \$3514

TOTAL 18,200

I employ a couple who live just up the hill from my condo. He is a handy man and she is a cleaner and they have been through some difficult times these last few years with the downturn of the economy, so the monthly income from managing my condo and the additional income from the cleaning helps them to make ends meet. I often take short 1 or 2 day bookings just to bring in the cleaning income for my on island hosts.

It takes me a few hours every time to fill out the forms and send this payment to you. But i feel like i am contributing to the economy of the island i love. If i were required to fire my on island host family and use a realtor, i would choose not to rent out my unit and you would loose out on the revenue stream you are receiving from me.

I'll leave you with this one last thought. It is much easier for owners who live on the island to cheat on a cash bases, no paper trail, as they are present to collect the cash. There is a clear paper trail for every booking that i take, every deposit that i make, and you and the fed get your share.

This legislation is a bad idea. Please vote against it.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: koel
Organization: Individual
E-mail: jciaccio@blackhole.com
Submitted on: 3/10/2012

Comments:

This bill is absurd. It is intended to place unnecessary controls on other people, and have the traveling public pay more. If you are trying to discourage travel to the Hawaiian Islands then continue to try passing this bill. We would not come back, and many others feel the same way.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dean H and Sandra J Smith
Organization: Individual
E-mail: sjsmith@me.com
Submitted on: 3/10/2012

Comments:

I currently own property at 14-4999 Wai Opae , Pahoa , HI 96778. When we aren't using our home we rent the prpoerty through Homeaway and VRBO. We pay all taxes TA and GE taxes. Our proceeds are put directly back into the house by adding an aerobic septic system, new roof and constant maintenance. If you require us to use a property manager our rent will decline we know because we have had a realtor rent our property in the past. This will directly impact tourist dollars and the money we spend in the local economy as well. It is like you are taking a step backwards with the e-file system the HI goverment has in place to pay our taxes and vacation rental sites such as VRBO/ HomeAway, managing your rental property is easier than ever. Even when we had a realtor mangage our property we had to pay the TA and GE taxes ourselves. Please do not pass this bill you will directly impact your tourist dollars that are so very important to the Hawaiian economy. More and more people are using vacation rental properties, spending money at local businesses from grocery stores to restaurants. If we have to spend 35% on property management fees we will be forced to take our property off the vacation rental market directly impacting the economic growth of Hawaii. We have experienced the best year to date which puts money directly back into the state through taxes and the local businesses.

Vote NO on SB 2089

Sandra Smith
Hale O'Nui Kea Kala
VRBO Listing #53607
Home Away Property #331522
Kapoho Vacationland
Phone (661)803-3943
Fax (661)253-1489
sjsmith@me.com
<http://www.kapohovacationrental.com>

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: val and paula mattos

Organization: Individual

E-mail: kamaole110@yahoo.com

Submitted on: 3/10/2012

Comments:

We appose House Bill 1707. Please enforce the laws already in place.

Do not penalize those currently in compliance. Another law will not deter those who choose not to follow them.

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jane Sinden
Organization: Individual
E-mail: rsinden@shaw.ca

Submitted on: 3/10/2012 I currently oppose the passing of this aforementioned bill. My husband and I have been renting our vacation condos from an owner directly for many years and have had nothing but positive experiences. I would not be as happy dealing with a management company for that transaction which would most likely be at an increased cost as well. Passing this bill I feel is a detriment to many of us in Canada who wish to vacation in the Hawaiian Islands and do so on a direct level with the individual owner of that condo. I do feel that this would definitely affect the decision for me to rent from a management company or broker without the personal contact with the owner and a lower rate of rental.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sue Farnsworth
Organization: Individual
E-mail: sfarns303@gmail.com
Submitted on: 3/10/2012

Comments:

I oppose this bill and believe passing this bill will cause Hawaii to become too expensive for us to visit. We will be forced to vacation elsewhere due to the higher costs incurred by involving property managers. Please veto this bill!!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Denis and Sylvia McMahan
Organization: Individual
E-mail: dw-mcmahan@comcast.net
Submitted on: 3/10/2012

Comments:

We are OPPOSING SB2089 SD1 Amended.

We collect and forward both the GET and TAT in a timely and accurate manner. Some may not be so diligent and law-abiding. It seems discriminatory to target only non-residents with this Bill, allowing those full time residents who might not be paying their taxes to continue to break the law, with impunity. There are surely ways to determine who is and who isn't paying their taxes and then go after those who are not paying their fair share.

To those of us who have always paid our taxes, the exemption gives us hope, but it seems vague and needs to be explained more fully.

In order to be able to stay afloat, we will need to raise our rates. In the tight economy we are in, our guests who have been returning to us regularly, may decide that the increased rates become unaffordable and look somewhere other than Hawaii for their vacations.

With the passage of this bill, we will be compelled to sell our condo, as the additional and costly overhead will demolish any benefit from owning our dream piece of paradise.

If more people have to sell their property because of the added costs of doing business, this will further flood the market and cause the prices to drop even further. There will be more listings at even more depressed prices, probably causing even more foreclosures. Unsettling the real estate market in Hawai'i even further may have far reaching effects on resident owners of property (but not vacation rental owners), who may not seem to have any direct involvement with this particular piece of legislation.

The few times we have received guests through property managers, there have been problems, with noise, and guests not taking care of our condo, lack of proper communication from the property manager. The managers would not allow us to have contact with the guests prior to arrival, which is where we establish the personal connection and expectations that helps make them more conscientious renters. We decided we did not want to use managers again and wanted more control over our renting.

We are very responsible owners, we screen our guests very well, verifying their suitability as prospective guests, talking with them on the phone, sending e-mails back and forth with pages of expectations and information, Rental Agreement, House Rules, all signed and returned.

Please allow us who are making a very positive contribution not only financially, but in spreading the spirit of Aloha to continue unhindered!

Hale O Mele La'i, our House of Happy Songs===Waikoloa Village Condo - Condominium - Sleeps: 4

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: bonnie liebhold
Organization: Individual
E-mail: liebhold@well.com
Submitted on: 3/10/2012

Comments:

It will be devastating to us if this bill passes.

We will have to sell our place at a super loss and go into
bankruptcy.

This is unconstitutional!!!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Russell Howell
Organization: Individual
E-mail: Rhowell@mtaonline.net
Submitted on: 3/10/2012

Comments:

I strongly oppose this bill. It smacks of an unjustified interference of the government in the affairs of property owners and potential renters at the behest of an interest group (brokers) trying to get the government to help them soak out of state property owners and renters for more money.

My family come to Hawaii often on vacation from Alaska. We have used the Internet to find and book rental properties. The Internet VRBO systems in place are quite sophisticated and make it easy to rent high quality properties for a reasonable price. almost all the properties listed on these systems provide extensive feedback on those properties and the people renting them. Those who are not on the up and up are weeded out quickly. Your proposed legislation is not needed (at least by the property owners and renters). It is un-American and is a poster child for the special interest politics that curse our country. If it passes my family and I suspect many others will go elsewhere.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Terry Neal
Organization: Individual
E-mail: tjneal@comcast.net
Submitted on: 3/10/2012

Comments:

I am writing in opposition to this proposed bill. It is simply a power grab by realtors and property managers. We have successfully used VRBO for several years to find vacation rentals, and then communicate directly with the owner. We have never had a problem with this system. The cost of adding realtors as the middleman will be passed on to us (the rentor). This additional cost will cause many of us to stop planning

vacations to Hawaii. Please vote NO on this bill; it would decrease tourism to Hawaii. We have always thought you wanted us to come over to the islands to spend money in your beautiful state. Do the right thing, say NO to this dumb piece of legislation.

Mahalo, Terry & Lynette Neal

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ely Dahan
Organization: Individual
E-mail: elydahan@gmail.com
Submitted on: 3/10/2012

Comments:

Strongly oppose.

1. Looks innocuous enough, but is not. Seems anti-competitive, anti-business, the height of cronyism. Anti-DEMOCRATIC.
2. Probably violates Commerce clause of the US Constitution.
3. Seems designed as a payoff to local interests at the expense of non-residents and tourists.
4. Makes me think of the initial steps taken by authoritarian regimes to sieze property from unfavored groups: Others. What's next,
5. I am shamed by this blatantly anti-Haole move.
6. Will kill Hawaiian tourism for families on a budget. Great for other states and vacation spots as they will gain as we lose.
7. Will drive even more owners underground. Tax revenues will decline, not go up.
8. Already weak property values will get hammered. This bill hurts many, many people, including many on our islands. It is producing huge stress for many of us.
9. Homeaway and VRBO may sue, costing the state even more and at the very least making us look stupid.
10. This will embaress Hawaii in the eyes of the nation. Could even affect Obama's reelection. The vast majority HATE this bill. There are such simpler ways to collect the taxes due using much simpler enforcement.
11. If you do pass it, make it EASY to get the exemption, and assume people innocent until proven guilty.

To Whom It May Concern:

We are writing to OPPOSE Bill SB2089 SD1. We have owned our property in Maui for 10 years and have managed it just fine by ourselves. We pay our taxes, both TAT and GET, on time, have records to prove same and feel that by passing this bill you would be taking our rights to ownership out of our hands.

Where are we going to be guaranteed that a property management company is going to take the same care that we have afforded our guests? Where will it be written that they will take a vested interest in the needs of our guests? Where will it be written that what we consider our second home will be treated with respect? I spend hours both on the phone and on line getting a feel for the kind of guests we allow in our home. Guaranteed, we can't be 100% positive that who we rent to will take care of our place but in the 10 years we have only had to cancel one rental because what was suppose to be originally 4 guests became 7. We said NO. Only on two other occassion have we decided NOT rent to back to certain guests in the future. I am positive that this will not happen with a property management company. They will rent to whomever they want with no regard to property. Whose to say that we will be notified when a rental is in our unit. Know for a fact that this has happened to friends. By mistake they found out that their unit was rented by a "Property Management Company" to over 10 people and because of the noise factor were notified by the on site manager. What a surprise! If they had not found out, the PMC would have pocketed the money.

We had 7 returning guests last year alone and three have signed on again this year. Why - we take pride in our unit, spend ample time there ourselves so that we can assure our guests that what we advertise is what they will get.

PLEASE, PLEASE take into consideration that not all properties are JUST RENTALS. We have put sweat and tears into making this a place we both enjoy coming to and sharing with travelers.

This law is unconstitutional as it takes the rights out of the hands of non-residents but not residents.

Should this bill pass, consider the effects that it will have on Hawaii's economy and property values not to mention all the units that will fall to foreclosure because of the abundance of people who cannot afford to keep paying the HOA fees and the taxes until it is sold or dumped. It is not right to have to raise rental fees to offset the 25-40% fees that would be needed to cover the extra fee of a property management company. NOT FAIR, NOT FAIR one bit.

Debi and Rod Conklin
702 Anna Place
El Dorado Hills, CA 95762

ENCHANTING MAUI
"Luxury in the Heart of Ka'anapali"
www.vrbo.com/190985
dctaxi1@yahoo.com

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathryn Howell
Organization: Individual
E-mail: Keh1949@yahoo.com
Submitted on: 3/10/2012

Comments:

I am strongly opposed to this measure. My husband and I are residents of Alaska and vacation frequently in Hawaii. We have rented condos directly from the owners each time. I will not rent from a broker because they are not invested in an individual property, only in renting many properties. If this bill passes, we will choose to spend our vacation dollars elsewhere. This bill is a really bad idea for everyone except the brokers who stand to make a profit-- but not from me!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: diana
Organization: Individual
E-mail: dianaleoneartist@gmail.com
Submitted on: 3/10/2012

Comments:

please do not pass this bill. We are opposed to this bill as it takes away our rights as homeowners. Diana leone
Ed leone
Eddie leone
owners Maui Banyan A104 Kihei Maui. 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Stacey Jenneve
Organization: Individual
E-mail: sjenneve@verizon.net
Submitted on: 3/10/2012

Comments:

Dear Representatives,

I am a non-resident property owner of a one-bedroom condominium in Kihei Maui. I have on-site personnel managing the property, however they are not currently collecting the rent or submitting the taxes on our behalf. I have a Hawaii Tax ID number and regularly submit the required transient accomodation taxes and general excise taxes directly. I feel strongly that the proposed legislation will only hurt those of us who are already paying the required taxes and that tax revenue will not necessarily increase as a result of this bill. I would like to recommend that anyone who currently holds a Hawaii Tax ID # and is paying the required TAT and GET be exempt from this legislation.

My situation is not unlike many other non-resident property owners. My mortgage exceeds the current value of my property at a time when rental demand is down and rental income has been greatly reduced. I am currently working with the bank on a modification loan to reduce expenses on the property in order to stay afloat, but that is not going well. The proposed legislation will force me to hire a real estate broker or salesperson and incur even more costs that I cannot afford. This action will ultimately lead me and many others to foreclosure. I WILL NOT be able to continue to afford to keep the property.

I respectfully request that you reconsider the potential unintended consequences of SB2089, and vote NO. Myself and many other tax paying, law abiding property owners will surely be harmed if this proposed legislation goes into effect. Additionally, if we are harmed and ultimately end up in foreclosure, the local economies will be harmed as well.

As a Hawaii property owner, I will be devastated by this bill, and that is not an overstatement. Please do not pass SB2089. Thank you for your consideration.

Sincerely,

Stacey L. Jenneve
Jamie E. Jenneve

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Rose Lagana
Organization: Individual
E-mail: lagtime1@aol.com
Submitted on: 3/10/2012

Comments:

In 2011, I rented a condo directly from the owner. The experience was wonderful. I was able to contact him at any time with any questions or concerns. By renting directly from the owner, the price was reasonable, I'm afraid if this bill passes the price would be out of my range and I really want to come back and spend more time in your great state. Please consider the cost involved in visiting your state from the east coast which is where I live. I would not be able to afford to visit again if the price was increased.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ellen Ernise

Organization: Individual

E-mail: peaceandaloha@hotmail.com

Submitted on: 3/10/2012

Comments:

Aloha,

We are residents of Maui/Hawaii and are OPPOSED to this bill for many reasons:

1. we rent two condos on VRBO and pay our taxes as do most owners who rent on VRBO, as shown in your audit.
 2. This law is unconstitutional as it targets non-residents.
 3. Tourism is coming back, but this will kill it!
 4. Real estate is coming back, but this will cause a huge increase in foreclosures because owners will not be able to afford a property manager and pay their mortgages.
 5. Property managers are the only ones who benefit from this law....EVERYONE else loses, including the STATE. There will also be less tourists because they will go elsewhere when they cannot afford to come to Maui!
 6. Senate ignored 700 pieces of opposing testimony!
 7. We used a property manager for 10 years and had disastrous results! Now we are breaking even and making a slight profit on OUR investment in Hawaii Real Estate. We also allow more tourists to come to Maui because they are able to afford our rates!
 8. There are already many laws on the books in Hawaii to force people to pay their taxes. Why add another one? This one will not force those people to pay their taxes but will cause many VRBO owners to go out of business and into foreclosure because they can't afford a manager. Then....Hawaii doesn't get any tax money! Please consider all the unintended consequences! This will NOT bring in more money....this will bring in LESS!
 11. Please pay attention to the opposing testimony instead of voting to reward the property managers and the real estate brokers!
- Thank you. We hope that you vote NO on SB2089 and maintain the tourist industry and the Real Estate industry in Hawaii as it is coming back! This will kill both of them if you pass it!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Eigner
Organization: Individual
E-mail: fmeigner@gmail.com
Submitted on: 3/10/2012

Comments:

I have owned my vacation rental property for 11 years. During that time I have used the services of a variety of property management companies. Without question, the worst service was from real estate offices.

The first realtor was managing 90 properties. That meant that I might get a couple of rentals out of every 90 they booked. Not very good odds, under the best of circumstances. They appeared to do little or no advertising outside of their own website. It was much easier to sit back and wait for their local connections to call, looking for inexpensive space for construction workers. Our condo was routinely rented at well under market pricing because the real estate company felt that some rent was better than no rent, a philosophy I do not embrace, given the wear and outright damage caused by some of these renters. The real estate company, while within the proposed 30 minute distance, regularly failed to notice damage and missing items, including an entire shelf stereo system. For this wonderful arrangement we surrendered 26% of our rental income. For an additional fee, they prepared and submitted our quarterly tax returns.

When we finally felt that we could not longer afford to do business with them, we sought another alternative. This realtor was a bit better with the advertising. Their fee was 20%. Many times I arrived to find carpet that needed to be cleaned, kitchen items missing, no beach towels, etc. I am fairly certain, because of the electric bill, that my unit was rented out without my knowledge with the rent money going into the agent's pocket. At this time, I had taken over my own tax preparation. As the agent was solely in charge of reporting income to me, the State may well have missed out on the TA/GE tax on those rentals.

We now have a property coordinator that is worth her weight in gold. She is not a licensed realtor. She handles all the bookings, arranges cleaning, opens the unit and is diligent about maintaining the condition of our property. We are in complete control over with whom we choose to share our home. Her fee is 20%. Advertising is done through VRBO and I prepare my own quarterly tax returns.

By choice, I already pay for management services. Not everyone can afford that luxury.

And while I admit that I do not smile when I write out those TA and GE tax checks, I do write them. It is insulting to the majority of us who are law abiding citizens to have this change rammed down our throats because of some PERCEIVED loss of tax revenue. Where is the documentation of tax fraud? And, if you have that, you can simply pursue those individuals without turning the vacation rental business into a bureaucratic nightmare.

I am sure that real estate offices are licking their chops over this potential boon in revenue, especially in the current sales market; however, I have grave concerns about whether they are staffed to handle the enormously increased workload and just what the quality of that arrangement will be.

VRBO is a system that works worldwide. Yes, it requires owners to be honest about reporting their taxable income. Appropriate changes might include requiring owners to post their tax ID number on the ad page and doing random checks against their "calendar."

The bill up for vote will most certainly change Hawaiian tourism. As if rising airfare is not bad enough, increasing vacation rental charges to cover the cost of questionable management and collect an even more questionable amount of lost tax revenue is ridiculous. But, California will love you. Those vacation rental property owners in Palm Springs are cheering you on.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Naresh Makhijani

Organization: Individual

E-mail: nareshmguard-2@yahoo.com

Submitted on: 3/10/2012

Comments:

I completely oppose this bill as it will put a huge cost burden on property owners and renters for the same of big businesses. Please don't let this happen.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Tom Hayes

Organization: Individual

E-mail: tomhayes13@hotmail.com

Submitted on: 3/10/2012

Comments:

I'm writing to express my opposition to SB2089. As a past owner of rental property on Maui I have personal experience with managers and it was not always something I was happy with. I recently have been returning to Hawaii, mostly for diving trips, and have been using VRBOs and wished this system had been in use years ago.

I really don't see how such a law can be passed for just non-resident and not include all owners, and it certainly isn't going to do the economy of Hawaii any good if the resulting increase in cost reduces the number of tourists visiting Hawaii or shortens their stay.

As far as I can tell the only ones to benefit from this legislation are property managers while hurting everyone else.

-Tom Hayes

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jack Bosman
Organization: Individual
E-mail: jbosman@promatinc.com
Submitted on: 3/10/2012

Comments:

We had a great time renting from VBO.
Everything was as promised, ready, clean, and very accomodating.
I believe it would be a crime if these renters were forced to
pay a fee to an outside agency.
Thius bill has the poteinial of ruining an excelent way of those
far away renting something in an area that they are interested
in.
thankyou!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith and Joanne Rathgaber
Organization: Individual
E-mail: rathgaber@shaw.ca
Submitted on: 3/10/2012

Comments:

Very Recently it came to my attention that the Realtors in the State of Hawaii were, very quietly, lobbying to have a bill passed. This bill would make it mandatory for all condo owners to have a realtor and real estate agency manage your condo for you. You would no longer be allowed to do this on your own.. Their concern supposedly is that there are too many not paying their taxes and therefore Hawaii is losing millions of dollars.

THIS REGULATION IS DISCRIMINATORY AND UNCONSTITUTIONAL!!

Why not simply go after the ones who do not pay??? There are already law for that!

This bill will be disastrous for the State of Hawaii and the fragile economy. Higher prices will surely ensue and that will negatively affect the tourism industry. Huge numbers of condo owners may decide not to rent their condos any longer which would lower the County's tax base as well as the State tax base. Hawaii has been showing signs of recovery this past year which will come to an immediate halt.

This Bill is unconstitutional and Discriminatory. Please Vote No to protect our Hawaii!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carol Lockridge
Organization: Individual
E-mail: carolalock@yahoo.com
Submitted on: 3/10/2012

Comments:

I oppose SB2089 SD1 Amended There are many people that find vacation properties via VRBO or HOME Away. We do so because the cost of our vacation is less than if we had to go through a property manager. The owners rent it to us for a fair price where they make a profit and we the renters feel that we are not getting overcharged. if this bill passes many will no longer rent these homes and owners will not be able to afford to keep them. It is not the governments concern to tell property owners how to manage their property. This bill is unconstitutional, impinging on an owner's right to do as he/she sees fit on who and when someone can rent their home. Why should there be a broker in the middle if owner wishes to do the leg work themselves. Citizens are getting fed up with government intervention in their affairs....

From: Christian Ruhrmann [cruhrmann@telus.net]
Sent: Saturday, March 10, 2012 1:54 PM
To: TOUTestimony
Subject: Opposition to Senate Bill SB2089

Please note that I am vehemently opposing the above bill as it infringes on my right to own and rent out my own property. If it's not already clear, forcing property owners to use the services of property managers or realtors will result in a dramatic increase in foreclosures (which will obviously result in even less tax being paid and collected) and/or increased rental costs (i.e. less tourism dollars). Not only that, but the entire Bill is unconstitutional as it targets non-residents instead of residents.

I fully support paying tax and can only recommend some form of official "taxpayer registration" to ensure that both residents and non-residents are fully compliant without the State losing out on tax revenue. For example there it could be made mandatory to include tax numbers on all ads posted on VRBO, etc. to ensure compliance (assuming the government has a way to ensure there are no negative privacy/theft related issues/concerns).

Property managers are the ONLY ones to benefit from this law, everyone else loses! For anyone that chooses to pass this Bill, you will experience the negative effects as people lose their jobs due to reduced tourism, your property values will drop yet again as many of us will be forced to sell/foreclose on our properties flooding the market with cheap condos and homes and the recovery that seemed to be on track will be reversed.

In summary, the Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand so NOT passing this bill is a "no brainer", especially if you want to ensure the future viability of the tourism sector in the State of Hawaii while also increasing tax revenue in order to maintain the proper infrastructure required to support both residents and tourists.

Mahalo,

Christian Ruhrmann

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jack Bosman
Organization: Individual
E-mail: jbosman@promatinc.com
Submitted on: 3/10/2012

Comments:

We had a great time renting from VBO.
Everything was as promised, ready, clean, and very accomodating.
I believe it would be a crime if these renters were forced to
pay a fee to an outside agency.
Thius bill has the poteinial of ruining an excelent way of those
far away renting something in an area that they are interested
in.
thankyou!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Denise Schnitzer
Organization: Individual
E-mail: deniseschnitzer@cox.net
Submitted on: 3/10/2012

Comments:

This, if passed, will make it more difficult for people to afford to vacation in Hawaii ... I vehemently oppose it.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robert younger
Organization: Individual
E-mail: Youngerlaw@yahoo.com
Submitted on: 3/10/2012

Comments:

I completely oppose this. I have numerous examples of bad experiences with property owners. My best experiences are with direct owners. All owners I have dealt with pay their taxes as part of the agreement.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandra Knight
Organization: Individual
E-mail: sandraknight@shaw.ca
Submitted on: 3/10/2012

Comments:

Dear Committee: I am in the process of purchasing a condo in Hawaii for the purpose of running a vacation rental. If this bill becomes law I will not be able to proceed with my purchase because the hiring of a property manager/realtor will cut into the already small profit margin forcing me to run the condo at a loss. I can't be the only person who will be dissuaded from purchasing property in Hawaii should this bill pass into law. This law would make an already soft real estate market worse. I spoke with the property manager who presently runs the unit she told me she can only have it booked 65% whereas my friend who runs her own in the same building has it booked 95%. You know which one pays more tax. What about dropping this bill and beginning a campaign that calls for creative ways to solve the problems that this bill is attempting to address. Here is one idea....tack on a small increase to the tax and as tourists are leaving Hawaii at the ports they could be eligible to receive a small rebate (or be entered into a draw for a great prize) should they submit a receipt stating the amount of tax they have paid this could then be cross-referenced with the amount of tax actually paid by the various owners and other rental groups. This would keep all paying their tax as they would never know when then could be caught up.

Thank you so much for listening. I do hope you find a creative way to solve these problems.

I really hope I can proceed with my purchase as I do so love Hawaii.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Julie
Organization: Individual
E-mail: julesjunk@verizon.net
Submitted on: 3/10/2012

Comments:

I hope you will take the time to see that this bill will not serve the propose it is intended to do. I already use a property manager on Maui and they don't file my taxes for me....I do. They also do not even ask for proof that I do it. So just because you have a management company doesn't mean there is a check and balance system. this bill will hurt Hawaii, tourist and it's property owners because if forced to use a management company they will be able to charge the owners whatever they want and then that will reflect on higher rates to the guest. Please oppose this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jack Bosman
Organization: Individual
E-mail: jbosman@promatinc.com
Submitted on: 3/10/2012

Comments:

We had a great time renting from VBO.
Everything was as promised, ready, clean, and very accomodating.
I believe it would be a crime if these renters were forced to
pay a fee to an outside agency.
Thius bill has the poteinial of ruining an excelent way of those
far away renting something in an area that they are interested
in.
thankyou!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sharon Lee
Organization: Individual
E-mail: landslee@q.com
Submitted on: 3/10/2012

Comments:

I strongly oppose passage of this bill. I feel it will adversely affect Hawaii's tourism as the way it reads we will no longer be able to rent properties through VRBO thus having to pay more for what we can now get for very reasonable rates. Thus rentals may become too costly to spend any time on your beautiful Islands. We put a lot of money into your economy while there and you will lose that if we can't rent direct from owners. Again I must emphasize, my husband and I are very much opposed to this bill. Please vote no!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: WAYNE SEDEN
Organization: Individual
E-mail: WSEDEN2003@YAHOO.COM
Submitted on: 3/10/2012

Comments:

I wish to go on record in "opposition" to SB 2089 SD1. As a frequent visitor to the islands we have become very familiar and comfortable using VRBO. We last spent a month this past January on Kauai in a condo we rented at a favorable price. Had we not used VRBO we probably would have stayed for shorter time due to the added cost of going through an agent. Consequently, we would have spent less money at other island businesses. VRBO is a benefit to the overall economy of the islands and should not be curtailed.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jack Bosman
Organization: Individual
E-mail: jbosman@promatinc.com
Submitted on: 3/10/2012

Comments:

We had a great time renting from VBO.
Everything was as promised, ready, clean, and very accomodating.
I believe it would be a crime if these renters were forced to
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far away renting something in an area that they are interested
in.
thankyou!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carolyn Rozzi

Organization: Individual

E-mail: c.rozzi@yahoo.com

Submitted on: 3/10/2012

Comments:

As a non-resident tax paying condo owner I URGE you to vote NO.
Pls. don't penalize the 90% that abide by Hi.Tax laws. Do
something about the 10% that don't pay.

Thank you

Carolyn Rozzi

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Virginia Schultz
Organization: Individual
E-mail: susieschultz@gmail.com
Submitted on: 3/10/2012

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: phil schultz
Organization: Individual
E-mail: mauikam@gmail.com
Submitted on: 3/10/2012

Comments:

This bill will be harmful to all owners for two main reasons:

- 1) Current investors who personally rent their property do it without having to pay the 25-40% property manager fee. Having to pay that will force more investors to sell their property and less investors to buy. This obviously will lower property values for all owners.
- 2) Eliminating the free market aspect of being able to do it yourself will encourage property managers to raise their fees even higher to all. These costs will eventually be passed to tourists who are our economy!

There are ways for the state to make sure everyone is in compliance with paying taxes that will not damage the economy. A little straight forward enforcement will take care of the non-compliant.

The only ones that will temporarily gain are the real estate property managers at the expense of the long term economy and tourists who will have to pay more! Although they are biting the hand that feeds them, the tourists!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Erin Carey
Organization: Individual
E-mail: erin@alohawailea.com
Submitted on: 3/10/2012

Comments:

I am completely opposed to this change in legislation. I was a pilot for Aloha Airlines until they went out of business and I had to move to the mainland to find a job. I was forced to rent my condo as a vacation rental, since the market could not support a sale without tremendous loss. I pay all of the GE and TAT taxes on a monthly basis. Additionally, I pay property taxes corresponding with the highest bracket for vacation rental. Last year the taxes were raised to 13.42% from 11.42% when I first started renting my condo on a short term basis. This additional cost to the guests visiting our islands has made it cost prohibitive to many people considering Hawaii for their vacation. For me to be faced with paying a licensed agent to pay and file my taxes will be an additional cost that I CANNOT be burdened with. I am doing my best to keep my property out of foreclosure and short sale. Please consider this additional financial cost associated with this change to the legislation. Enough is enough for a lawful taxpayer to the State of Hawaii. Thank-you in advance for understanding that this change is not the answer.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Flemming
Organization: Individual
E-mail: blu930@earthlink.net
Submitted on: 3/10/2012

Comments:

To whom it may concern,

I am a surgeon practicing in Monterey , Ca. I was made aware of this pending legislation through a very responsible condo owner. on Maui.

We rented his unit via VRBO with excellent results. His communication was outstanding. Although he was not on site, many of his friends are in the complex and made us feel right at home. Overall a wonderful experience. My fear is that the ramifications of this bill will render the cost prohibitive for these small owners to continue.

Please carefully consider the plight of the small business owner in your decision making. Once they are all gone , a government with no resources will be left to care for the masses. Good luck.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Myron Adams
Organization: Individual
E-mail: MyronAdams@gmail.com
Submitted on: 3/10/2012

Comments:

I oppose passage of SB2089. It will only benefit Property managers, but will be detrimental for tourism and property owners.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Diane bakker

Organization: Individual

E-mail: Bakkerdiane@gmail.com

Submitted on: 3/10/2012

Comments:

Why change something that has worked for years. If you want to hurt the economy pass this bill but my guess is you won't be in office much longer

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Ways
Organization: Individual
E-mail: johnswayssr@yahoo.com
Submitted on: 3/10/2012

Comments:

I am amazed you are even considering this action which only serves Real Estate agents. I was a Realtor and even I think this is atrocious!

Do NOT destroy the lives of people who own property in Hawaii and rent it to others. I have always been treated well and honestly by owners.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: curtis wallace
Organization: Individual
E-mail: canddwallace@msn.com
Submitted on: 3/10/2012

Comments:

I, as a traveler to the islands, wish to take; t;he time to oppose this bill. It takes away options that we have used to acquire accomodations and increases the cost. Please do not pass this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Melanie Ways
Organization: Individual
E-mail: melanie.ways@duncanaviation.com
Submitted on: 3/10/2012

Comments:

I have had the pleasure of visiting Hawaii many times now and for the last 11 years I have always rented from an owner directly through VRBO.com. I am very opposed to this law because it will raise the rates and, as I am now retirement age, it will mean that I will not be able to visit Hawaii - that's lost income to the State of Hawaii - and over the years that has really been a significant amount of money. I am a past Realtor - no way would I want an owner to be forced to work through me. Please do not take away the right of an owner to manager their own property. How can you even think this is fair or just?

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tracy Dodd
Organization: Individual
E-mail: tkdodd@mac.com
Submitted on: 3/10/2012

Comments:

I have personally rented great properties using the VRBO website and have recommend this to many friends and family for trips all over the world. We have had nothing but wonderful experiences, the condos have been clean and ready for us when we arrived. If there were any problems the owner/manger was just a call away if we needed anything. I do not support this bill as this would be very unfair to the owners to be required to hire someone and the potential price increase would drastically affect the tourism in Hawaii.

Regards

Tracy Dodd

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat Pitcher
Organization: The Travel Group
E-mail: pat@yourtravelgroup.com
Submitted on: 3/10/2012

Comments:

I would like to express my concern of the SB 2089 bill. Having confirmed private properties in Hawaii on many occasions with private owners I can tell you that the taxes were paid to the owners and that often times it was because of such deals that the clients were able to afford the trip. Over the last several years it has become more and more difficult for people to afford such vacations especially as the airfares continue to increase. For instance, last year travel from the state of New Mexico was approximately \$600 in the month of July, this year the fares are tipping the \$900 -\$1000. For a family which normally stay in such accommodations as privately owned condominiums this make the trip almost impossible. If this bill passes then the accommodations will increase in price as well. I believe that the overall outcome would be less travel to Hawaii.

As far and my experience as been. I receive better service from a private owner than a property manager.

Thank you for taking my views into consideration.

Pat Pitcher
The Travel Group
24 Bouquet Lane
Santa Fe, NM 87506 USA
505 455-9200-ph
IATA 32 54775 6
pat@yourtravelgroup.com

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: LINDA TYNES
Organization: Individual
E-mail: tynesl@comcast.net
Submitted on: 3/10/2012

Comments:

Stop Realtors and Brokers from riding on the backs of property owners by opposing SB2089. 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 SB2089. 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 SB2089.

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 House of Rep. 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.

With this economy do we think we can risk fewer people and less revenue coming to Hawaii? Stand up for free enterprise. Vote NO on SB2089.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Chris Maloney
Organization: Individual
E-mail: chris.maloney@mac.com
Submitted on: 3/10/2012

Comments:

I believe this bill could adversely affect renters. Currently we have many choices from non-resident owners and resident owners. I have used both types. My concern is the additional fees required for non-resident owners that will be passed on to renters. I have not had any difficulties when there were issues as I had easy access to the non-resident owner and locals through the non-resident owners. A bill for a fine of an owner, regardless of resident or non-resident, who does not support the renters needs would be reasonable, yet probably not necessary. Please do not support this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Roderick Michael Gilbert
Organization: Individual
E-mail: kiddgibert@yahoo.com
Submitted on: 3/10/2012

Comments:

Please vote NO on bill SB 2089, it will completely depress the real estate market. Who would want to buy property that they cannot manage by themselves. This is punishing people that do not live in Hawaii, but are helping the economy by bringing in tourists. We pay our TAT and GE tax, along with property tax. This bill is going to hurt the tourist business. People will have to pay higher amounts to come to Hawaii. There is nothing to be gained. Maybe brokers will get more money, but soon this will hurt the Islands income. This bill is not going to protect the Hawaii islands against people that do not pay their rental taxes. I am sure there are many residents of Hawaii that do not comply with the laws about paying these taxes. You are separating out those of us that are trying to help. We feel this is very unconstitutional.

Sincerely, Yvonne and Michael Gilbert

Property owners at Waipouli Beach Resort on Kapaa, Kauai

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Armies younger
Organization: Individual
E-mail: mikemeedie@cox.net
Submitted on: 3/10/2012

Comments:

If this passes I will have to pay 30 to 40 % more and will have to vacation elsewhere. This also seems unconstitutional force an owner to turn over their property to a third party who they might not trust

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: George LoPiparo
Organization: Individual
E-mail: platnuminc@aol.com
Submitted on: 3/10/2012

Comments:

I oppose this. What are you people trying to do...THIS IS AMERICA!!! We have large investments on that Island and cant afford to have Realtors renting our personal homes out...I OPPOSE THIS!!!!!!!!!!!!!!!!!!!!!!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lisa Puccetti
Organization: Individual
E-mail: lisa@pestosoft.com
Submitted on: 3/10/2012

Comments:

I strongly oppose this bill! I'm a person who has been bringing my family, and my tourist dollars to Maui for the last six years. We love the condo experience, and want to continue to enjoy it without having to pay high management fees or rates. We have rented directly from private owners several times, and have always had positive, completely well informed, professional experiences with them. They take superb care of their properties, and take pride in renting them. Please don't ruin it for individual owners, and visitors like us who love Maui!!!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mike younger sr
Organization: Individual
E-mail: mikemeedie@cox.net
Submitted on: 3/10/2012

Comments:

I had bad experience with management company and now only go through individual owners. If I am mandated to go through management I will start vacationing in the caribbean. All my owners showed me they send in all taxes. Don't penalize everyone for a few violators.

Comments Opposing Bill SB2089 SD1 amended

There are many downsides to this bill not the least of which will be the unintended consequences of loss of livelihood to people presently managing properties and the loss of taxes to the state from properties removed from the market. This bill may serve to benefit a few realtors and salespeople that are presently proposing and supporting the bill. But what will be the eventual cost and negative impact to the present property managers who are hired by the non-resident property owners to oversee their properties?

The intent of this bill is to catch a small percentage of errant property owners who are not paying the appropriate taxes. Why are the non-resident owners being discriminated against? I speculate that there are resident owners that are working under the radar. If this bill is passed, the resident owners will have a distinct advantage over the non-resident owner since the cost of doing business is much less for them. We will not be able to be competitive since we will need to raise our rates to help offset realtor/property manager's fees.

In the time we have been renting our property to vacationing visitors to Hawaii, we have collected and paid over \$17,000 in general and transient taxes to the State of Hawaii. We feel personally insulted that we as a non-resident owner will be forced to hire a middleman over whom we will have little or no control. Our resort had a management company that private owners could **choose** to use if they did not want to handle their own rental unit. This company went bankrupt and did not pay the owners or the taxes that had been collected. The owners had to pay the taxes.

We handle all our own bookings thru VRBO and Homeaway and by word of mouth from people who have stayed at our condo. We send our guests a reservation contract stating the rates, taxes, cleaning fee and cancellation policy. We also send them an information letter which contains information on the condo and resort. Our on-island housekeeper makes sure that the condo is ready for their stay and is readily available if the guest has a question or if something needs to be repaired.

We contact our guests during their stay to make sure if everything is all right. We have many guests that return because their past experience was wonderful. If our guests are celebrating a special occasion such as an anniversary we have a bouquet of tropical flowers along with a personal note from us. We do care and pride ourselves in giving that bit of special attention to our guests.

If this bill is passed, we will have no other recourse than to withdraw our unit from the rental market. The cost to the state from us alone will be the loss of approximately \$4000 per year in tax revenue and one housekeeper with one less client. This bill is blatantly unfair. There are enforcement provisions and fines on the property owner yet there are no limitations or consequences on errant realtors or salespeople. They are free to charge what they please and there are no consequential damages for their non performance of the implied fiduciary duties if they fail to perform.

Please vote no on Bill SB2089 SD1 amended

From: Linda Mitchell [mailto:lindafinearts@gmail.com] Sent: Saturday, March 10, 2012 8:42 AM To: TOUTestimony Subject: Opposition to SB2089 SD1
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Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Katie Gardner

Organization: Individual

E-mail: Ksgardner30@hotmail.com

Submitted on: 3/10/2012

Comments:

Having rented condos in Maui directly from owners multiple times, my husband and I are opposed to having to rent condos via a management agency. We have rented from multiple condo owners and our experience dealing directly with them has been nothing but positive. They are able to answer any questions we have had before and during our stay. All our trips to Maui have gone flawlessly and we hope to continue the same experience in our future trips. Thank you.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: George Hu
Organization: Individual
E-mail: george98034@hotmail.com
Submitted on: 3/10/2012

Comments:

I own a condo on Maui in Honua Kai, and I am in escrow to buy another. I feel this bill is poorly written (it's not form 990 - 1099-MISC maybe, "Condo Hotel Owners" is too limiting as licensed brokers can't be both that and a CHO), overly complex compared to WA state, and scares all owners like myself that we are being unfairly pursued and our business model will fail and we'll be forced to sell our properties. Right now I've put my purchase on hold because this legislation may cause my property management to increase from 25% to 50%.

I do pay my GET & TAT taxes but I must say that compared to WA state, Hawaii makes it very difficult to do so. I called the Dept of Revenue and they couldn't point me to a single document on how to pay my GET & TAT taxes. I finally found the DCCA's BB-1 and FLLP online applications but the BB-1 was denied because my paperwork was more than 3 months old which then required another two weeks to get paperwork from WA and submit to HI. In the meantime my filing deadline had passed so I had to submit a paper BB-1 without HI tax ID which of course caused problems with the Dept of Revenue. In WA, by contrast, I filed online without any special documentation about my LLC (do you really care who is paying you money!?!?!?) and immediately was able to pay my taxes online.

Everyone, both resident and non, should be paying GET & TAT to the state. I don't object to requiring all non-residents to use an in-state property manager, but don't limit it to "Condo Hotel Operators" as a licensed real estate broker can't actually be one. Requiring all individual VRBO owners to receive a Tax Clearance every year is going to swamp your offices.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Caroline Salaya

Organization: Individual

E-mail: csalaya@cox.net

Submitted on: 3/10/2012

Comments:

I oppose this measure. I have 4 kids, and we rent directly through the individuals, we have had nothing but great experiences. If this bill passes, we will not be vacationing in Hawaii, due to the increased expenses.

Sincerely,
Caroline Salaya

From: Linda Mitchell [mailto:lindafinearts@gmail.com]
Sent: Saturday, March 10, 2012 8:42 AM
To: TOUTestimony
Subject: Opposition to SB2089 SD1

Hello,

Please oppose the SB2089 bill.

This bill will unfairly discriminate against non-resident owners of Hawaii and do great damage to my business and the tourist business in Hawaii.

For the twenty years that I have owned property on Maui I have paid the higher hotel rate for property taxes on short term rentals. Although I have one bedroom condos, the tax rate is the same as what a hotel would pay...almost three times what the residents pay. Now Bill SB 2089 is proposing to change the way I can do business because some people are not following the present rules. I think the laws that are established should be enforced instead of imposing regulations on those of us who already pay taxes. We have paid the GE and the TA taxes. Our advertisements announce the tax rate; we collect taxes and pass the money on to the State of Hawaii.

We now have two condos, and we have hired numerous local people to do jobs that need to be done. We have done major remodeling projects which have offered employment to many local workers. We shop locally for the condos, including appliances, window coverings, flooring, kitchen supplies, and linens. Of course, we pay taxes on each purchase.

At one time I had an agency managing my condos. The agency did not do a satisfactory job for me. I had to get the clients, and the agency did not assign guests to me. In a years' time, they only obtained a few guests for me. Although I contacted them and said that I needed them to get more guests for me, nothing changed. When I finally ended my contract with them, I was told that they didn't assign guests to me because I had so many of my own. Others who didn't recruit their own guests, came first with the agency. Obviously I couldn't continue to do the work and pay someone else as if they were doing it. There is no way that I want to go back to having someone else manage my business and do a poor job of it. I simply can't afford that kind of "help".

I think it is interesting to note that when this bill was presented earlier, testimony in support of the measure was given by the City and County of Honolulu Department of Planning and Permitting; Maui Hotel and Lodging Association; Condominium Rentals Hawaii; Poipu Beach Resort Association; West Hawaii Property Services, Inc.; Waikoloa Vacation Rental Management; and four individuals. It really doesn't take much thought to figure out the bias presented here. I hardly believe that these five rental agencies are truly worried about people paying taxes. Instead, I propose that they are trying to build their business by forcing more people to hire them. I have seen reports that these companies don't like the fact that rental business can now be done effectively by owners using the internet. They are fighting to keep the old way of doing business when something better has come on the scene. The internet is here to stay and people like to do business on it. My guests tell me that they appreciate knowing which condo they will be renting. I can't believe they will be satisfied to go back to the agency who will tell the guests something to the effect, "We will note your preferences and try to meet them. However, we cannot guarantee that you will have a specific condo."

My clients like doing business with me because I look after their interests and establish a rapport with them and present them with a top notch product. I have time to talk to them about the wedding they are planning, the important birthday they are celebrating, or the family vacation that is being anticipated. I check in with them during their stay to make sure things are the best for them at the condo. I have had no complaints, but many thanks for the way I conduct business. I cannot afford to have to pay someone else, who will raise my expenses and won't give the condo rentals the same attention I do.

In the recent amendment, the 990 form doesn't seem to really apply, and it is certainly confusing to try to figure out why it was included in the amendment. If this is a typo, it seems that people were in such a rush to push this through that the bill was not even proof read.

I provide my guests with the name and phone number of an on-island contact to help them with any possible problem or emergency. I think if I am required to post their numbers in advertisements, it will be confusing for the guests as to whom they should call to make a booking.

Obviously non-residents do business in Hawaii without the benefit of being able to vote for representation. Laws that adversely affect us do not do damage to the elected officials because we have no vote. When we feel discriminated against, we need to reconsider if it is worth trying to do business in Hawaii. We have hung in there through the last few years of economic downturn. Just as the economy and the tourist business seems to be increasing, we are hit with the possibility of unnecessary rules to limit how we do business and to create more rules to follow because the present laws are not being enforced.

Thank you for your careful consideration. PLEASE OPPOSE SB 2089 SD1.

Linda Mitchell
Lindafinearts@gmail.com

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandra Bilson
Organization: Individual
E-mail: westmauibeachpad@mac.com
Submitted on: 3/10/2012

Comments:

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

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

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

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

Sandra Bilson, Property Owner

From: Holoholo [mailto:holoholowailea@sbcglobal.net]

My reasons for Opposing SB2089 SD1 Amended:

First, as condo owners our family fully supports paying all Hawaii taxes. We always have paid them promptly and on time and we can support this statement with our records.

I very strongly oppose SB2089 that requires non-resident property owners to hire a rental agent.

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

"Aloha!

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

The difference between our arrangement with you, and our second week through a property management company at Kaanapali, was your personal touch, that made for our most enjoyable stay. In particular we made use of your Maui reference books on birds, whales, plants, and trees etc, beach stuff, BBQ, lanai, and well equipped kitchen. Your condo has a lovely layout and although there was just the 2 of us we appreciated the space. Cheers, Karen and John Calgary, Alberta"

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

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

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

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

I strongly urge you to NOT pass SB-2089!

Sincerely yours,
Dean and Jane Burroughs

From: ascentmcw@gmail.com [mailto:ascentmcw@gmail.com] **On Behalf Of** Best View on Maui

Sent: Saturday, March 10, 2012 8:48 AM

To: TOUtestimony

Subject: SB2089 SD1, Tourism Committee March 12th 9:30 am

Hello,

My name is Michael Wellborn and I own a vacation rental on Maui and I am writing to express my opposition to bill SB2089 SD1.

Currently I have a local property manager for my condo however I book 90% of the bookings so I collect all the TA and GET tax and pay the State of HI each month. As it stands now I work very hard to keep the unit occupied. This bill would require me to use a real estate agent to collect the payments and they will charge a fee for doing this. As it is now I am barely breaking even. Having to comply with this bill will not allow me to keep my vacation rental that I have worked so hard to keep.

Please do not punish the vast majority of us who pay our TA and GET tax because of the minority that does not.

I urge you to vote NO on SB2089 SD1

Thank you,

Michael Wellborn
712 Pascali Ct
San Marcos, CA 92069

From: Mary [mailto:msiroky@gci.net]
Sent: Saturday, March 10, 2012 9:01 AM
To: TOUTestimony
Subject: Opposing SB2089 SD1 Amended and I pay taxes see below

I paid in FY11

TA taxes \$2344.54
GE taxes 1161.06
Property tax \$2889.99

I have owned and been paying taxes for the past seven years. I cannot maintain my small rental business if I have to pay 30 to 35% of rental income to a property management company. I brought in \$39,813.95 in rent. Losing a third of that to a property management company means I will probably sell.

I have furnished and continue to upgrade my furnishings with local purchases. I have replaced the 3 TV's I purchased in 2005 with flat screen TV this past summer - all purchased at the Kona Costco. know property management companies buy in bulk and barge items over. I looked at property management companies and had I taken that route I would have been able to purchase an entire kitchen packet from them as opposed to what I did do - which is to go to walmart and kmart and set up my kitchen that way.

As a small business I succeed because I cater to families with a personalized comfortable home with supplies and accessories - boogies boards, back pack beach chairs, ice chests purchased locally. The art on the walls, the dishes, the Hawaiian cd's all were purchased locally. Me and my clients are supporting other Hawaiian small business when my clients buy food, and tours, and souvenirs.

Require everyone to post their tax id on the websites. I am sure you can figure out a way to search VRBO for tax id numbers electronically or when I retire I could do that manually for you. Then fine those who don't have it posted and make it punative \$5000 to \$10,000 and if you find they have not paid taxes make that even more punative.

Mary Siroky
17000 Glacier hwy
Juneau, AK 99801
907-321-0550

From: Kathleen Sears [mailto:Kathleen.Sears@lakesideschool.org]
Sent: Saturday, March 10, 2012 7:32 AM
To: TOUtestimony
Subject: Opposed to SB2089 SD1

Dear Representatives,

I am a loyal, law-abiding Hawaii taxpayer who rents my condo to try to hang on now that its value has plummeted approximately 40% since I purchased it five years ago. The mortgage I owe is significantly more than what I could sell it for, if I even could sell it since other condos in my complex are not moving very fast except at slash and burn prices.

Going through a property manager would increase rental costs and reduce income, and very likely push me into a forced sale. **As a school teacher nearing retirement, this would have a devastating effect on my financial security!** And it may even result in less tax revenue for the state of Hawaii, as others like myself discover that is not worth the hassle of going through a middleman to rent.

I can prove that I have regularly paid taxes on all rentals since I took ownership of this property, and I am willing to provide those records. As a school teacher, the idea of passing a blanket law that punishes all for the purported violations of a few seems like blatantly unfair, **bad legislation.**

Please consider the negative impact on law abiding citizens and find another way to collect unpaid taxes.

Oppose SB2089 SD1!

**Thank you,
Kathleen Sears
Seattle, Washington
425-771-9460**

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Cole Sanderson

Organization: Individual

E-mail: colesanderson4@gmail.com

Submitted on: 3/10/2012

Comments:

Please stop this bill.

Our family owns a condo in Kauai. We will sell if we are forced to have a property manager involved in our family home. We wont have a third party that doesnt care involved in something we care deeply about. We pay every cent of tax. There has to be a million different things you can do that dont involve forcing owners to work with a group of people we dont want to work with. This bill is confusing, it is UNFAIR, it is discriminatory. stop it! Rethink! Work to find a better solution to locate and punish those that dont pay tax. Just dont punish those of us that do.

From: Pat Davidson [mailto:pat@pgdavidson.ca]
Sent: Saturday, March 10, 2012 7:44 AM
To: TOUtestimony
Subject: Bill SB2089 SD1 Amended, Tourism Committee

Dear Committee Members,

We are Canadians who have been owners of our Maui condominium for 6 years. We have always collected and remitted, on a timely basis, all taxes with respect to rentals in this regard. We find the above bill to be discriminatory in nature and unconstitutional in targeting non-residents.

Rentals of our property were initially handled by a property management firm, which charged excessive fees, proved to be unreliable and non-responsible in many key areas, detracting from the Hawaiian vacation experience for our guests. Through the past 4 1/2 years, we have invested substantial time, effort and capital in establishing quality repeat clientele and are strongly opposed to legislating a required property manager/real estate agent into the equation, which would require us to pay onerous fees (we do currently have an on island property manager who is responsible for dealing with any problems that guests may have, providing housekeeping and looking after maintenance issues - we pay this property manager a nominal monthly fee but look after all rentals and all bookings ourselves to insure quality tenants).

The vigilant enforcement of existing state laws to ensure that ALL rental properties are collecting and remitting taxes, with strong penalties for non-compliance would be a viable alternate course of action.

The Hawaiian real estate market has been a fragile industry over the past 2-3 years and is finally exhibiting the early signs of a comeback. The passing of Bill SB2089SD1 will have a negative impact on this industry, and we respectfully request your opposing this Bill.

Yours very truly,

Patricia G. Davidson &
Robert G. Davidson

Wailea Ekahi 7G
3300 Wailea Alanui Drive
Wailea, HI 96753
Phone: (403) 860-6092

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Tom Bacon

Organization: Individual

E-mail: Tbacon45@hotmail.com

Submitted on: 3/10/2012

Comments:

Everything about our experience with rental by owner was very positive and profesional

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jim Hybiske
Organization: Individual
E-mail: jimhy@sbcglobal.net
Submitted on: 3/10/2012

Comments:

I am writing to voice my OPPOSITION to SB2089 HD1 which will prohibit owners of rental properties to continue to manage and rent their properties on their own.

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

Renting on our own, we have raised our rental rates by 25%, eliminated the 30% management fee, improved our advertising choices, and use a much more professional maid service. Consequently our occupancy rate has gone way up. Our guests like to deal with us, the owners, as we can provide individualized suggestions to make their stay on Maui the best it can be. We have many reviews supporting this on our VRBO listing (VRBO.com/215504). We have an on-island contact person for guests to contact in case of emergencies or questions.

Renting on our own is bringing in more money to the State via the GE/TA taxes that we pay and it allows us to be a member of the HVCB and good ambassadors for Maui---I see it as a win-win situation for all of us. Taking this choice away from us will reduce our income, which will reduce the amount of GE/TA taxes that I pay, reduce the personalized "Aloha" experience that we provide to our guests, reduce the amount of dollars that we am now able to spend locally on furnishings and amenities. In addition, I firmly believe that it takes away my constitutional rights to use my property as I wish. And it is just so un-Hawaiian!

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

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

I DO have a problem having to pay someone else to manage OUR property and make decisions as to what rate to charge and who to rent to. We are good ambassadors of Aloha for Maui. If this bill passes, it will have a great impact on the many people who rent on their own, offer a good product, and pay their fair share of taxes. If the State feels that they are not receiving the taxes they are due, then they should use the policies that are available to collect from those who are being unethical. Don't punish us and take away our rights! You mention some sort of exemption---what exactly is that exemption? It is not described in the bill.

I suggest better informing property owners of the laws concerning vacation rentals and better enforcement. We would even support giving those who abide by the rules some sort of badge or official seal with our tax ID# to add to our websites so that it is apparent that we are following the rules. It might even be "good" for our image. and increase business.

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

Aloha and Mahalo,
Jim Hybiske

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Caitie Cullen
Organization: Individual
E-mail: caitiejcullen@gmail.com
Submitted on: 3/10/2012

Comments:

I have visited Kauai 3 times in the last year. Each time I stayed at a VRBO - because I PREFER TO STAY AT AN OWNERS HOME. Property Managers add many charges and dont provide a personal feel at all.

I get better communication, there are personal touches throughout the process and in my experience it always is better organized and more personal to deal direct with owners.

IF HAWAII BRINGS IN THIS LEGISLATION and forces me not to have a choice to stay at a VRBO I WONT GO TO KAUAI. I'll go to Mexico or Florida. Sad, but i wont be forced to deal with property managers.

I PAY TAXES EVERY TIME I RESERVE and Im completely confident these are handed over to the government.

THIS BILL IS SIMPLY UNBELIEVABLE. HOW YOU CAN FORCE A GROUP OF PEOPLE (OWNERS) TO HAND OVER THEIR VACATION HOMES AND USE ANOTHER GROUP OF PEOPLE TO BE INVOLVED IN SOMETHING THEY WORKED HARD TO ACQUIRE AND TAKE GREAT CARE OF, is imply HORRIBLE.

Please re-think this! Start again, there must be many, many ways to figure out who is cheating and punish them without punishing a large group of people that are brining tourists to Kauai and treating them so well. Go back to the drawing board, this is just BAD ON MANY LEVELS

From: FranksDice@aol.com [mailto:FranksDice@aol.com]

Sent: Saturday, March 10, 2012 8:03 AM

To: TOUtestimony

Subject: testing

It is a joke to ask non-residents to be required to pay realtors and/or property managers to handle their rental properties. That stifles capitalism and investment in the state of Hawaii. Please do not pass SB2089.

From: joe gatlin [mailto:jgatlin@iec-corporation.com]

Gentlepersons,

Aloha, I am sending the committee this e-mail to register my opposition to the bill currently before your committee.

My wife, Linda, and I purchased our Maui condo in 2004. Until we retired a few months ago, we lived and worked in California. When we are not visiting the condominium, we rent our condo through both a rental agent, Condominium Rentals Hawaii (CRH), and a web-based service, Vacation Rentals By Owner (VRBO). We have honestly and diligently paid all of the taxes due from the time we purchased the unit. Hundreds of guests have enjoyed staying in our condominium at a fair, competitive price, while pumping their vacation dollars into the local economy. We encourage our guests to support the local residents who provide goods and services – for example to buy products “grown in Hawaii and not flown to Hawaii.” In the case of guests who select our unit through VRBO, I am able to establish a personal connection and make recommendations on places to eat and excursions to take. I am not interested in supporting national chains, headquartered elsewhere. I love the Hawaiian culture and I want our guests to experience the best that Maui and Hawaii have to offer. Our rental agent, while very competent and performs a good job, does not have the time to answer e-mails from guests.

I fully support the effort of the Legislature to ensure that all GET and TAT taxes are reported and collected. Otherwise, we are at an immediate 13.42 percent disadvantage in trying to rent our unit compared to the owner of a similar unit who fails to pay the GET and TAT. I just believe there are other ways to ensure compliance with the law rather than mandate that only a select few agencies can book our unit. Such a law would establish oligopolies and disturb the free market, by eliminating free market competition. I believe that all agree that web-based commerce has been a boon to the world economy, making transactions more efficient and transparent. To pass this bill would be a step away from such web-based commerce

Finally, I believe there will be many unintended consequences if the Hawaiian Legislature passes this bill, including but not limited to the following:

- An increase in the cost for a prospective tourist to visit this beautiful state – the increased costs manifested in commissions the rental agents would charge
- The reduction in the number of tourists visiting Hawaii will have a direct, negative impact on the goods and services provided by the local citizens who support owners such as ourselves.
- A knock on impact in real estate values and consequently a reduction in real estate tax revenue.

Please consider establishing a focus group to consider all the ramifications of this bill, rather than heed the words from lobbyists representing a few rental agencies who stand to reap a windfall benefit if this bill passes. Please feel free to contact me if you have any questions or comments.

Mahalo,

Carl E (Joe) Gatlin
Maui Kamaole, M-110
2777 S Kihei Road
Kihei, HI 96753 808-891-1605 949-351-4119

From: Lisa Spradlin [mailto:lisaspradlin63@yahoo.com]
Sent: Saturday, March 10, 2012 8:05 AM
To: TOUtestimony
Subject: SB2089 SD1

Dear Tourism Committee,

I am writing to oppose SB2089 SD1 because my family has traveled to your beautiful state twice with another upcoming planned trip there in 2013. Using VRBO website, has allowed us to spend our extra dollars in your restaurants, tourist activities, and shopping. If this bill passes, then we will cancel our trip due to higher lodging costs and change to a different locale. We are residents of Florida, a tourism state, and nothing like this bill has ever been discussed because our legislators know the drastic effect it would have on our state economy. I urge you strongly not to do this to property owners because it will have an adverse effect on potential visitors to your beautiful state.

Sincerely,

Lisa and Gary Glossop
1456 The Crossings
Niceville, FL 32578

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Franklin Drachman

Organization: Individual

E-mail: franksdice@aol.com

Submitted on: 3/10/2012

Comments:

Not in the best interests of the state of Hawaii. Passing this bill will stifle new investments in the state. It also goes against the spirit of capitalism. Do not penalize the current owners who had the foresight to make substantial monetary investments.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: PARICK JAURON
Organization: Individual
E-mail: PJAURON@GMAIL.COM
Submitted on: 3/10/2012

Comments:

THIS BILL SEEMS TO BE TO PROTECT THE RENTAL COMPANIES, INDIVIDUAL OWNERS SHOULD BE ALLOWED TO RENT THEIR OWN PROPERTIES (NOTE: THEIR OWN PROPERTIES), THIS PROPERTY DOES NOT BELONG TO THE STATE OF HAWAII, THIS WILL DRIVE PRICES UP FOR THESE PROPERTIES FORCING TRANSIENT RENTERS SUCH AS MYSELF TO LOOK ELSEWHERE FOR MY VACATIONING NEEDS, REMEMBER THIS.....WE DO NOT ONLY RENT DWELLINGS WE SPEND ALOT OF MONEY THROUGHOUT THE ISLANDS, THIS WILL CAUSE HAWAII TO BECOME TO EXPENSIVE . VOTE NO AGAINST THIS MEASURE AND STAY OUT OF THINGS YOU DO NOT BELONG IN. SMALLER GOVERNMENT NOW!!!!!!!

March 10, 2012

6:45 AM

Subject: Opposing SB2089 SD1 Amended

Aloha!

My husband and I have been property owners since 2004. We have been successfully renting our condo to vacationers since that time.

For the first couple of years, we enlisted a well-known property manager to help us get on our feet and running. It soon became apparent that their profit was their bottom line and they did absolutely no screening of guests. Cleaning was an issue and no care was done to provide our guests with a personalized sense of Aloha. When maintenance issues presented themselves, guests had to wait 2-4 days...even more to see a resolution or to even get a response.

After putting up with that for a year or so, we switched to a manager who owned in the building we were renting. VERY nice people, however, cleaning was an issue again and they were unhappy if I booked someone in for fewer days than THEY liked.

BOTH experiences ended badly. We were always taking a loss as the management fees ranged between 15% and 30% depending on season and if I procured the rental. If we had decided to stay with a property manager our rates would have to go up just to make ends meet. And that translates into fewer renters. We ended up hiring an on-island manager just to be available for issues that guests may encounter. This for \$100 a month.

We registered for a license and we have ALWAYS paid our taxes....and on time! I agree something should be done for those who do NOT collect taxes or who dishonestly collect them, but fail to submit the money. Horrible in my opinion.

This bill, while well intended, I'm sure, will have devastating effects of property owners, forcing foreclosures in many cases. It is certainly understandable the State would like to increase its revenues by collecting taxes from dishonest landlords. Focus on that!! Nail those who don't collect or refuse to submit their taxes!!!

I urge you to defeat this Bill and work at constructing a method to weed out dishonest owners.

Respectfully,

Mary Peterson

Waikoloa, HI

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mary Peterson
Organization: Individual
E-mail: Panioloclub108@aol.com
Submitted on: 3/10/2012

From: Mauifun@aol.com [mailto:mauifun@aol.com]
Sent: Saturday, March 10, 2012 5:40 AM
To: TOUtestimony
Subject: testing

Bill, SB2089 is a discriminating bill! We have been invested in Hawaii for twenty five years! It has been a win-win investment!! We pay our taxes every month, WITHOUT fail! We think this bill effects our free rights as an American. Tourism has been down due to the economy, but we see a rally now.If you want to put the Flame of Tourism Out, then vote for this bill!!! I know we will immediately sell out, we own three properties by the way, and invest elce where. Think about all the owners that will do the same thing. What a BAD thing for the state of Hawaii.

I urge you to NOT VOTE for SB 2089
Denise Russell

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Laurence Knight
Organization: Individual
E-mail: knight9798@shaw.ca
Submitted on: 3/10/2012

Comments:

I oppose this bill as it adds a middleman to the running of a small rental business and makes the business not profitable. We are happy to pay the appropriate taxes to the state of Hawaii and would ask that you look into education re paying of taxes. This bill will send many more property owners under water and further damage real estate prices.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Juliann Gornick

Organization: Individual

E-mail: gornickj@hotmail.com

Submitted on: 3/10/2012

Comments:

Strongly opposed to this measure. As a nonresident condo owner who efficiently files the TAT and GE taxes, this is unfair and will significantly damage an already struggling tourism.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Roger L. Woehl

Organization: Individual

E-mail: rwoehl@comcast.net

Submitted on: 3/10/2012

Comments:

We are annual visitors to different islands in Hawaii. We have always rented from private individuals and have never had a problem.

Passing legislation that limits or mandates an interest group- in this case realtors--exclusive business rights is counter to free enterprise and creates a monopoly. Please defeat this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Glen Tauber
Organization: Individual
E-mail: gtauber@shaw.ca
Submitted on: 3/10/2012

Comments:

Dear Sir and/or Madam:

I strongly oppose this bill as it will incur immediate financial hardship to myself as owner of a vacation rental property on Maui. Given the past, current and future recession of the US economy, I, as a owner have had to take drastic financial measures to ensure the financial viability of my rental condominium in Maui. If this Bill is passed, it is a realization that a minimum 25% of my rental revenue will be dispensed to a rental agent for services that I already provide. As a result of this forced measure among rental property owners, I will be forced to sell my property, incur financial hardship, and risk the possibility of declaring bankruptcy to my mortgage lender. These are my concerns if this Bill is passed.

Sincerely,

Glen Tauber (Maui property owner)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kathy DeCoursey

Organization: Individual

E-mail: decoursey@yahoo.com

Submitted on: 3/10/2012

Comments:

I have rented a condo directly from the owner in Maui and has been a fantastic experience. With the additional fees for a property manager, I would not have come to Maui and you would have lost the revenue from meals, excursions and souvenirs. Please do not pass this bill!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Nan bacon

Organization: Individual

E-mail: bananab7@hotmail.com

Submitted on: 3/10/2012

Comments:

What's this world commit to?

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: LARRY LIVINGSTON

Organization: Individual

E-mail: LARRYDBAY@AOL.COM

Submitted on: 3/10/2012

Comments:

I oppose the government getting in my life and business. I oppose SB2089. Big Brother is watching. This a mark on another freedom the government is now taking us all over. I will support a huge protest.

From: Judithdbay@aol.com [mailto:Judithdbay@aol.com]

Sent: Saturday, March 10, 2012 6:24 AM

To: TOUtestimony

Subject: testing

ALOHA,

I'M AFRAID YOU HAVE FORGOTTEN THE WORD. YOU ARE NOT THE ALOHA STATE. YOUR THE MONEY HUNGRY STATE....FOR SURE YOUR GOVERNMENT IS.

I OPPOSE YOUR GOVERNMENT SB2089 SDI. YOUR POOR PEOPLE WHO LIVE THERE, NEED TO HAVE GOVERNMENT IN ALL YOUR BUSINESS. AWFUL... I WON'T COME AGAIN, EVEN THOUGH I HAVE COME TWICE A YEAR. ONE TIME IN HOTEL ONE TIME IN CONDO. I'VE NEVER HAD A PROBLEM WITH CONDO.

YOU HAVE SOME NERVE....WHAT HAPPEN TO "FOR THE PEOPLE"???

LAST OF ALOHA,
BEV MASOURIS

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Joyce Eberhart

Organization: Individual

E-mail: Eberhart@rockymountains.net

Submitted on: 3/10/2012

Comments:

This is horrible. Leave things alone

From: Tom Lewicki [mailto:TomLewicki@Shaw.ca]

Sent: Saturday, March 10, 2012 6:32 AM

To: TOUTestimony

Subject: *****SPAM***** Bill 2089

This year will mark the 10th time we've been to Kauai for a winter vacation and it's a top choice for a couple of months every year after we retire.

Each visit but our first we've rented a house from its owner. Without exception we've paid the appropriate taxes and found the owners to be very responsible managers.

Rental prices in Kauai are already quite expensive, and if they were to increase due to Bill 2089 we will be forced to reconsider our retirement plans.

Tom Lewicki
Winnipeg, Canada

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kevin Hendra
Organization: Individual
E-mail: khendra@cox.net
Submitted on: 3/10/2012

Comments:

Representatives

This bill is bad for Hawaii for the following reasons Support paying tax - but are opposed to inserting property managers or realtors into the equation Law is unconstitutional as it targets non-residents instead of residents Exemption needs to be spelled out and explained fully in any proposed legislation Tourism is coming back, this could have devastating effect on it Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell - flooding the market Property managers are the only ones to benefit from this law, everyone else loses!

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand

Enforce existing tax laws

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: E. Merlic

Organization: Individual

E-mail: marmar@surewest.net

Submitted on: 3/10/2012

Comments:

My wife and I have rented our condo since 1986. We have conformed to all Hawaiian laws, paying the TAT and R.E. taxes on time every year. Now, this new ruling is going to put us out of business with the extra costs provided by a system which will prove to be illegal.

From: Lynn Lowe

To: TOUTestimony@capitol.hawaii.gov

Sent: Saturday, March 10, 2012 9:29 AM

Subject: Testimony for SB2089 on 3/12/2012

To Whom it May Concern,

My husband and I are Canadians, in 2006 we purchased a condo in Kihei Maui we paid \$720,000 for it. According to recent Market evaluation we would be lucky to get \$480,000 we OWE more than that.

We have managed to make our payments so far by renting it out on VRBO ourselves. We still have to supplement the income to pay all the bills. (I would like to add this is time consuming and a lot of work had we realised the full implications involved in buying a property in Maui we never would have gone ahead with it).

Should this bill go through we will have no choice but to let this property go in to FORECLOSURE we simply cannot afford to pay management fees!

Your Sincerely,

Lynn and Murray Paterson

4508 109 avenue,

Edmonton, Alberta. 780-465-2465

From: Monica Roberts [mailto:mer0752@yahoo.com]
Sent: Saturday, March 10, 2012 6:34 AM
To: TOUtestimony
Subject: SB2089 SD1

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 SB2089 SD1 and vote no to allow 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 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 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 the Bill. As the Attorney General suggested, "under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents. We would therefore request that all 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 compliant."

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

Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island.

We, as nonresident owners, seek to comply with the laws. We offer the following suggestions to enhance compliance.

Educate by a 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.

1. Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice.

2. Every property owner receives a property tax 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 non compliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Fred A. Diercks

Organization: Individual

E-mail: 39fredd@comcast.net

Submitted on: 3/10/2012

Comments:

My condominium hotel operator charges outrageous fees and pools the rental fees collected and divides them equally whereby I cannot verify usage. Kamaole Sands Maui. I now have my own on-island employees and file tax W30374970-01. This bill impinges on 1st amendment rights to freely run a business. Your problem is to find the rentors who never register and this bill does not solve it

From: GAEL FOREST-KNOWLES [mailto:forestknowles@prodigy.net]
Sent: Saturday, March 10, 2012 6:40 AM
To: TOUTestimony
Subject: Opposed to SB 2089 SD1

To The Tourism Committee, March 12, 2012, 9:30 AM:

I have recently become aware of this bill being considered, and wish to express my sincere opposition to it.

If the cost is 25% - 40% more for the same condo, I may certainly reconsider my continuing visits. Also, renting from the owners was a good experience and I paid the tax when I rented from the owners!

Please leave a good thing alone since it's working for so many people.

Thank you for your consideration,
Gael Forest-Knowles
2418 Vallejo Street
Santa Rosa, CA 95405

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bonnie Gray

Organization: Individual

E-mail: Bonniegray133@comcast.net

Submitted on: 3/10/2012

Comments:

I am opposed emphatically to this bill! We rent our condo legally, and pay our taxes legally. This bill would REQUIRE us to employ an agent and pay them to do what we already do. This would make it no longer possible to do business in Hawaii for us.

Please vote NO for this bill.

From: Janet Crews [mailto:jjcrews@me.com]
Sent: Saturday, March 10, 2012 6:50 AM
To: TOUTestimony
Subject: RE: 2089SD1 TOURISM COMMITTEE 3/12/12 9:30AM

REGARDING 2089SD1, TOURISM COMMITTEE MARCH 12, 2012 9:30AM

Dear Senators,
I have just been made aware of your Senate Bill #2089.

I would like to strongly oppose this bill being passed.

My husband and I have worked and lived on Maui for 25 years from May to November. Due to economic reasons, we need to work and live on the mainland during the winter months. We pay all our Hawaii taxes, local, state and federal. We finally were able to purchase our own place, a condo in Kihei, several years ago and to make it work economically for us, we must rent our place while we are gone. I applied for my Hawaii business license when we bought our place so that I could be the property manager and do the renting directly with our guests. I have people locally, who care for our place like it was their own, and are at our guests beckoned call if they need anything or for any emergency. These people will be out of work with your new bill; do you want to contribute to Maui's high unemployment and loose their tax payments as well?

We worked hard and for many years to buy our own Maui home and **we want to be our own property managers of our home**, so that we can screen who will be using our property while we are not there. I have run a business for many years, I know how to run a small business and I know the responsibility of reporting my business transactions and paying appropriate taxes. Since day one, I have reported all my TAT income and payed my due taxes.

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

We did not use our life savings to have to pay others a commission to rent our place to just anyone and allow any number of people to stay at one time; and to believe they will care for it as we do. They have no personal interest in our *home!!!* Giving up these rights to control the care and rental of our property is not just an invasion of our financial and business rights, but of our ability to control the usage of our part time family home.

Please rethink this, it is NOT a good bill and I know many other property owners like us, that this is not just an investment it is our HOME as well. Would you turn your home over to a rental management company?

Thank you,
Janet Crews
P.O. BOX 872
Sun Valley, ID. 83353

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Nancy Sweatt

Organization: Individual

E-mail: nsweatt@earthlink.net

Submitted on: 3/10/2012

Comments:

I OPPOSE SB 2089 SD1 MONOPOLY. (Tourism Comm.)

Please consider the ramifications if this Bill is not stopped. Extensive testimony and letters have set out the hardships not only to owners and everyone working for them, but to the State of Hawaii as well with decreased tax revenue that would result. Instead of more tax funds, the opposite will result with millions lost right along with thousands of jobs.

There will also be lawsuits to protect the constitutional rights of non-residents and their homes. The attached letter from Damon, Key, Leong, Kupchak and Hastert sets forth some of the legal basis and unconstitutional issues supporting opposition. The House had a similar Bill (HB1707) already defeated on illegality alone.

Tourism is the core of Hawaii. This is another way of self-destruction. As has been established in many hearings before now, millions will be lost from tourism without vacation rentals; they will go elsewhere to areas that welcome them. Many homeowners will not be able to obtain agents (established by Rico) RESULTING IN THE LOSS OF MULTI-MILLIONS to the State of Hawaii.

Please do not lose sight of the fact that this was instituted by 5 real estate companies (4 from the Big Island and one from Maui) to put more money in their pockets, raping the homeowners of profits...this was not formulated to bring tax funds to the State of Hawaii, which it would not which has been explained in numerous correspondence.

This Bill discriminates against owners who live off island and violates several existing Hawaii laws with no supporting factual basis. Such laws are unnecessary as there are already several laws requiring the payment of taxes. It was initiated by a few agents to monopolize the industry. Though many would not be able to hire such agents, the remainder would be forced to raise their rates beyond affordability of the families that try to come to Hawaii the only way they can. Why? Just to cover the 40-50% fees these agents want for themselves and tourists....Not for the State of Hawaii.

Owners already pay GE and TAT taxes on any income, and pay a good deal of money for their homes to be maintained, personally managed and cleaned in continual good order. Families from all over the world depend on these vacation rentals as they do in all their destinations. These real estate companies are not desirable as they do not screen the tenants, don't care how many people they cram into the homes or parking and do not care about the home or the neighbors. The owners are the best people to rent and manage their homes ...they care about their homes and the neighbors, and they do pay their taxes.

Mahalo, Nancy Sweatt
P. O. Box 300, Oahu, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bonita gray

Organization: Individual

E-mail: Bgray133@gmail.com

Submitted on: 3/10/2012

Comments:

Please vote NO!

This bill is prohibitive to investing in vacation rental property in the state of Hawaii!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: RM

Organization: Individual

E-mail: gayle.konahawaii@earthlink.net

Submitted on: 3/10/2012

Comments:

IF THIS PASSES IT WILL DRIVE TOURISM AWAY FROM HAWAII. EVERYONE WILL SUFFER, NOT JUST THE OWNERS THAT DO NOT PAY THEIR TAXES BECAUSE THEY WILL FIND ANOTHER LOOPHOLE AROUND IT.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tara Sweatt
Organization: Individual
E-mail: tarasweet@earthlink.net
Submitted on: 3/10/2012

Comments:

I OPPOSE SB 2089 SD1 MONOPOLY. (Tourism Comm.)

This Bill was initiated by four Big Island real estate companies and one from Maui for the sole purpose of monopolizing the market and putting more money in THEIR pockets, not the State. It was then joined by familiar names from a small Kailua, Oahu, group whose sole purpose is to ban vacation rentals. The State needs instead to proceed with permit and regulation processes for all the islands. Currently, Hawaii, Maui, and Oahu still have no procedure for permitting.

This is a backdoor attack which will result in a huge loss of rentals entirely, not to speak of the loss in tourism...all for selfish purposes of a few trying to force payment of 40-50% of the rental income to themselves, not the State. The State will lose tens of millions of dollars in GE/TA taxes from this attempted monopoly.

Here are reasons owners do not use these big agencies to manage their homes:

- Agencies are too big to give personal attention to any home with poor screening, too many people being booked into the homes and large events. The type of tenants is not monitored, and they care little about the homes and neighbors. THE BEST PEOPLE TO MANAGE THEIR HOMES ARE THE OWNERS WHO DO CARE.

- Agencies charge anywhere from 40% to 50% of the income. This will cause higher rents and less rentals as it becomes unaffordable for the families that come to these homes, and again less for the State. These homes allow an affordable way for many families to come to the islands.

There is no evidence of any difference between owners from the mainland and those residing here in paying their taxes which they do. Mainland owners must have local contacts for tenants and neighbors, as well as maintaining and attending to the homes, and they do pay their taxes as the Audit performed showed. This is straight up unnecessary discrimination promoted for purely selfish and personal gain. It is unconstitutional and has already been defeated in the House in their HS 1707 based on illegality alone. (Letter of Attorneys attached.)

Please redirect your efforts towards a process for the islands to permit and regulate the vacation rentals before embarking on destruction of the vacation rental industry so important to the tourism of the islands.

Mahalo, Tara Sweatt, Oahu
PO Box 300, Haleiwa, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Claudia Snyder
Organization: Individual
E-mail: cocacola@diveboat.net
Submitted on: 3/10/2012

Comments:

It seems odd that this legislation would force me to hire and pay a property manager. Doing so would either RAISE the cost to a visitor by about 30% (that would reduce tourism) or cause me to incur an additional cost of 30% (I could not pay my mortgage, and would be forced to sell) in an already suffering economy. I pay my taxes, including GET and TAT, so I don't understand why I would be forced to hire a property manager and pay 30% extra for that property manager to pay my taxes. My past experience with property managers was TERRIBLE. Guests had problems, unit was not properly cleaned, property managers lied about the number of days rented (cheating me and the tax department) and renting my unit out for pool parties and laundry parties. I care about my investment and my visitors and provide outstanding service, far better than any property manager. There are better ways to enforce the existing laws than to force owners to use and pay for substandard service. This legislation would devastate property values, and devastate the rental market as well, and actually reduce tourism. Please vote NO on this bad bill.

Thank you
Claudia

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Andy Iuliano

Organization: Individual

E-mail: andyiuliano@gmail.com

Submitted on: 3/10/2012

Comments:

I OPPOSE SB 2089 SD1 MONOPOLY. (Tourism Comm.)

This Bill is supposedly based on an attempt to gain more funds for the State of Hawaii, a false face. In reality, it is solely to force more money into real estate agencies. At the same time, it will also close many vacation rentals on the islands...not because homeowners don't pay their taxes (which has been shown they do by prior State audit). Thousands of jobs will be lost along with vacation rentals. All this amounts to extensive loss of tax funds for the State...millions.

Maui, Oahu and the Big Island have no way of permitting short term rentals which should be the first focus. Without that, agents are not able to rent these homes without fines., This is self-destruction of tourism once again by the State of Hawaii.

The Bill discriminates against owners living off island and violates several existing laws. Another law is unnecessary as there are already many laws requiring the payment of taxes. This Bill runs afoul of existing laws, discriminates, is illegal and unconstitutional, not to speak of the lawsuits that will ensue.

This Bill was initiated by a few real estate companies, mostly from the Big Island, solely to hopefully force more money into a few real estate agencies creating a monopoly and thwarting free enterprise.

The idea that owners are not paying their TA and GE taxes is an old and baseless argument. The fact is an audit was already performed and they found that the majority were in fact paying their taxes. There is no evidence separating homeowners that are not residents from those that are. This is a further assault on homeowners with no factual basis for the discrimination which will result in many going underground, banned, or increased rates to cover ridiculous fees of 40-50%. Many owners will not be able to hire the agencies without extensive fines and they do a very poor job of managing the homes for owners and concerns of neighbors. They care little about how many or the type of people they stuff into the homes. ..just unacceptable for everyone. This will destroy the vacation home industry and the millions of tourism dollars they bring leaving so many families from all over the world with nowhere to go that is affordable.

Further, the House Bill equivalent has already been (HB1707) has already been defeated based on its illegality and unconstitutional. Attorneys legal summary has already been submitted.

Mahalo,

Andy Iuliano, Oahu
P O Box 300, Haleiwa, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Stanley Zuke
Organization: Individual
E-mail: szuke@shaw.ca
Submitted on: 3/10/2012

Comments:

As a annual vister to Hawaii i oppose the current proposal.I have always rented from owners and the dtate taxes were always a priority with them it has been 25 yaers that I have been coming .

Your proposal will do 2 negative actions for your state,s economy 1 it will drive away toursits like my self who are on a limited budget and consider Florida or Arizona as an option as the proposal will add more cost to the condo owner which he will passon to his customer.2 It will lower the value os existing condos as potinial buyers have a more oneroes time renting Stan Zuke

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mike and Gaylen Heacock

Organization: Individual

E-mail: mikeandjed@aol.com

Submitted on: 3/10/2012

Comments:

My opposition to this proposal is simple, freedom, the right for the owner of a house, condo to rent it in a manner of which they choose. Anything else is income redistribution. The victim's of this proposal will be the property owners, the renter through higher costs and the state of Hawaii for loss of revenue through tourism. People will go to other tropical locations. Please don't allow this proposal go forward, kill it now!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sandra Beeskau

Organization: Individual

E-mail: sandrabeeskau@gmail.com

Submitted on: 3/10/2012

Comments:

I live in British Columbia, Canada and I have visited Maui for many years and have always found that renting from individual owners was always the better way to go as the places were usually stocked better and if there was any problems, it was always taken care of. Owners care about customers coming back so will go the extra mile to make sure everything is taken care of. Realtors and property managers are not so attentive. I have seen this example in bc, my daughter is trying to rent a condo in Vancouver and the realtors and property managers that show the suites are not prepared, they don't have any relevant information and really don't care if you rent or not. As many Canadians visit Hawaii on a regular basis, I believe if this bill is passed, the additional costs that will be added to rental rates will deter visitors from coming. With the economy being in the state it is, I would suggest that passing this bill would be a bad decision.

From: Kathleen Sears [mailto:Kathleen.Sears@lakesideschool.org]
Sent: Saturday, March 10, 2012 7:32 AM
To: TOUTestimony
Subject: Opposed to SB2089 SD1

Dear Representatives,

I am a loyal, law-abiding Hawaii taxpayer who rents my condo to try to hang on now that its value has plummeted approximately 40% since I purchased it five years ago. The mortgage I owe is significantly more than what I could sell it for, if I even could sell it since other condos in my complex are not moving very fast except at slash and burn prices.

Going through a property manager would increase rental costs and reduce income, and very likely push me into a forced sale. **As a school teacher nearing retirement, this would have a devastating effect on my financial security!** And it may even result in less tax revenue for the state of Hawaii, as others like myself discover that is not worth the hassle of going through a middleman to rent.

I can prove that I have regularly paid taxes on all rentals since I took ownership of this property, and I am willing to provide those records. As a school teacher, the idea of passing a blanket law that punishes all for the purported violations of a few seems like blatantly unfair, **bad legislation.**

Please consider the negative impact on law abiding citizens and find another way to collect unpaid taxes.

Oppose SB2089 SD1!

**Thank you,
Kathleen Sears
Seattle, Washington
425-771-9460**

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Andy Chenoweth
Organization: Individual
E-mail: a.chenoweth@comcast.net
Submitted on: 3/10/2012

Comments:

Frankly, this bill blows my mind.

1. It addresses a very small problem with complete overkill.
2. Property owners, resident or nonresident, have an interest and stake in their property and a business interest in making sure visitors have a pleasant island stay. How presumptuous to suggest that a disinterested property manager could do a better job.
3. This is the type of government action that causes resentment and fuels reactionary anti-government groups like the Tea Party.
4. Regulate and tax vacation rental owners -- resident and nonresident alike -- in a fair and equitable manner, but don't add unnecessary costs.
5. The expense of property management will obviously affect the economics of property ownership -- negatively. If money were no object, no one would rent their property: they do so because they need the income to pay the mortgage and/or other living expenses. If you reduce demand, property values decline, the tax base declines, etc. We just saw this happen as part of the general economic recession and mortgage lending abuses. Why strike a further blow to the Hawaii real estate market.
6. This is a bad bill which will increase the cost of visitor accommodations in Hawaii, adversely affect the real estate market in Hawaii, intrude on the right of individuals to manage private property.

I STRONGLY OPPOSE THIS BILL.

Thank you for your consideration.

Andy Chenoweth
Makawao, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Robert Cavin

Organization: Individual

E-mail: bcavin@mimosalane.org

Submitted on: 3/10/2012

Comments:

I have stayed in private condos on the Big Island and on Maui and received great service from the property owners. The condos were in great condition, and I was charged tax.

I am absolutely OPPOSED to SB2089!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: jerry lamb
Organization: Individual
E-mail: jalamb1953@yahoo.com
Submitted on: 3/10/2012

Comments:

I travel to Maui from time to time for vacation. I always rent from condo owners and never experience any issues. if you expect me to support a broker who in turn is going to skim 30% to 50% simply to make sure the condo owner pays a few % points in taxes and in turn the cost for me to rent will increase by 30% to 50% you are wrong. I will simply go to Cancun or elsewhere in Mexico. It is closer and cheaper. I love my country but this is simply wrong to support brokers because they claim some big deal of how they can bring more tax revenue when all they really want is to line their pockets. i would bet most owners pay their taxes in full. There has to be a better way to manage this. Concerned citiizen of the US. Dont let this happen the tax base will go down as condos are pulled off the market. This is like bypassing a car dealer to buy from a broker who knows nothing about cars

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Frank Buttaccio

Organization: Individual

E-mail: fab4fab4@aol.com

Submitted on: 3/10/2012

Comments:

I have rented dozens of times in Hawaii and have never had any problems. This proposal will guarantee NOTHING. There are just as many unscrupulous realtors as owners. The only result that can be a guarantee is the realtors will make money that do not deserve and the owners will be driven to sell their properties.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kenneth Green
Organization: Individual
E-mail: mahana1012@yahoo.com
Submitted on: 3/10/2012

Comments:

As the retired owner of a condo in maui who used to rent through an agent and ultimately decided to rent it myself, I want to express my opposition to HB 1707 and SB 2089. My EHawaiiGov filing ID is 2348694 and my Hawaii Tax ID#: W30049908-01. I have always paid my TAT and GET taxes. I used to pay 40% commission to the realtor to rent our condo. I now pay about \$30.00 per month to list on VRBO and Flipkey each. My income would be significantly reduced if I was forced to use a realtor and pay even 10% commission which would be closer to 20% or more. Please do not inflict this unfair financial burden on my family and other law abiding citizens who choose to rent directly. Punish the cheaters, not the law abiding citizens!

This would reduce my income to a point that I would be forced to sell our piece of paradise.

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

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

As a final concern there are an estimated 10,000 rent by owner properties in Hawaii. There is no way that the local realtors are prepared to absorb 10,000 new properties and advertise them in the timeframe that this bill proposes!

Mahalo;
Kenneth Green

From: Sheryl Germinaro [mailto:sgerminaro@yahoo.com]
Sent: Saturday, March 10, 2012 4:45 AM
To: TOUTestimony
Subject: testing sb2089

This is the second time we have written to this issue, we visit the island of Maui at least twice per year, should this pass we will be forced to go elsewhere so that we can use VRBO....it is the only group we will use.

VRBO are able to keep their prices affordable which allows us to make more than one trip per year, when we first started coming to the islands we went through other avenues, we were taken advantage of and to be very honest the places were not kept up or even very clean. We found VRBO by accident and have used it every since.

We have always found the owners to be honest, forthright, friendly and very in tune to the islands. They explained many things to us about the fees, taxes they have to pay etc. so that we can understand the pricing, they have also answered many questions regarding attractions on the islands as well as the local customs, foods etc.....they really care about the islands.

We truly believe that this will stop us from coming to a place that we love as this will only increase the costs & in this economy we all must watch our pennies. We find it NOT to be in Maui's or Hawaii's best interest to move forward with this. We have thought about purchasing but will need to rethink should this go through as we would only use VRBO....This does not seem like the right thing to do for Hawaii, for tourism for your economy actually it seems to us that you would be cutting off your nose to spite your face....

We have been coming to your islands at least twice per year since 1997 and would hate to have to find a new place.

PLEASE reconsider.

Thank You
Sheryl Germinaro & Gary Dvoran
Fountain Hills, Arizona

From: peggy Kay [mailto:peggylkay@gmail.com] On Behalf Of Peggy Kay
Sent: Saturday, March 10, 2012 5:01 AM
To: TOUTestimony
Subject: NO to 2089 SD1 tourism committee

Please vote against this bill. I don't want to feel like I live in Russia and am being watched (not trusted) by big brother and his corrupt insiders (realtors).

I pay my taxes and bring visitors to the island. It will not be worth my time to continue to do this if an unnecessary property manager takes a cut. And why only off island property owners? This feels Draconian.

Peggy Kay
Ekahi 11F
Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Lucinda Woerner

Organization: Individual

E-mail: woerner@garlic.com

Submitted on: 3/10/2012

Comments:

If this bill passes, I m finished as a homeowner in Hawaii. By occasionally renting my condo, I have been able to hang onto it but just barely. The market is very competitive, and the small rental fees I am able to collect help me pay the costs necessary to keep my property. If this bill is passed I will lose my property, and there will be another devalued, empty condo in Hawaii.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Janice Goyenechea
Organization: Individual
E-mail: andresgoy@aol.com
Submitted on: 3/10/2012

Comments:

We had a wonderful, positive experience renting a condo from an independent condominium owner on Maui last year. Everything was as promised or better. If this bill is successful, we will not be able to afford to take our family to your beautiful and one-of-a-kind state. Thank you for considering this as you move forward with your decision.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carl Claras
Organization: Individual
E-mail: naishdicycle@yahoo.com
Submitted on: 3/10/2012

Comments:

I am a property owner of a vacation rental and pay my TAT taxes on time and in full. This bill would greatly increase costs for owners and put many more properties into FORCLOSURE, ALL PROPERTY VALUES WOULD GO DOWN with the glut of forclosures and put MANY RESIDENT OAHANA TAXPAYERS UNDERWATER too. Nobody wants this to happen in an already fragile housing market.
Please vote NO.

Testimony on SB2089

My name is Gary R. Stephens. My wife, Barbara, and I purchased our condominium property (Unit D-308) at the Pono Kai Resort on Kauai in February of 2002. We have been renting the property as a vacation rental and using it occasionally for our family since that time. I have been diligently and honestly filing General Excise Tax Return G-45 and Transient Accommodations Tax Returns TA-1, and Hawaii Income Tax returns. We have been paying all GE, Transient, income, and property taxes.

In addition we have been paying mortgage and interest payments to First Hawaiian Bank. Over the years we have been upgrading our property to make it more attractive as a rental, purchasing supplies and equipment from Hawaii firms. We have been providing employment to local Kauai residents via the association fees that we pay to the Pono Kai Resort. We have encouraged our vacation renters to take patronize local businesses, artisans, and farmer's markets. As non-resident owners we do all this while using very little of your state-supported facilities and services.

The Pono Kai Resort association fees have been steadily escalating virtually every year that we have owned the property. We are now at the point where we are barely breaking even with the income we receive versus the outgo. The effect of this legislation if it passes would be to force us to sell our property, as we would not be able to keep it with the additional fees and overhead a real estate or property manager would charge.

If you are concerned that not all non-resident owners are as honest as we are, and that you are not getting the full amount of taxes you should be receiving, there must be a better way to rectify that problem. But if this is the result of the Real Estate Property Management lobby, then it is an unconscionable attempt from a predominantly large corporations (many of which are located outside of Hawaii) to put small business owners out of business.

In spite of continually escalating airline fees many visitors have been able to come to Hawaii because of the relatively affordable accommodations they can secure through renting vacation rentals from private owners like us. We have encouraged many of our friends, neighbors, and extended family to visit Hawaii, who might have vacationed elsewhere without our condominium. We have "sold" the attraction of Hawaii to many people. If you price us (and the many other individual owners like us) out of business, you will be killing off a large part of the informal tourism marketing capacity that exists because of us. I believe you will then see a net drop in the number of paying tourists that can come to your lovely state with the consequent reduction in net revenue. We urge you not to do this.

Gary R Stephens
Pono Kai Resort #D-308
4-1250 Kuhio Highway
Kapaa, HI 96746

Barbara L. Stephens

March 10, 2012

Tourism Committee
State of Hawaii

RE: Opposing SB 2089 SD1 Amended

We are asking that you do NOT approve nor vote in favor of this Bill which will make it law to have property managers/realtors handle all condos.

As condo owners in Maui, and from Canada; we fully support paying the required taxes. During our period as owners we have contributed all requirements in Transient Accommodation Tax and General Excise Tax (total for 2011 was \$5,610.86).

We are in complete opposition to this bill because of our experience in managing our condo personally. From past experience, we have found that property management companies do not take the same interest in tenants and do not have the same efficiency in keeping the condo filled.

Our success has been by giving prompt replies to all requests, providing helpful information about Maui, by promoting our location to many friends and associates in Canada.

We have been able to pass the savings on to our tenants (tourists) by not upcharging 25 - 30% for another management agency. We do not want this bill to go through, because this would drive up the rental rates.

Following Hawaii State law, we already are required to have an on island contact to act on our behalf, while not on the island.

We work hard to keep our condo filled with bookings throughout the year, when we are not using the unit ourselves. We feel this is a benefit to the State of Hawaii, rather than having the unit sit empty, with no tax collected. If this law was passed we would find it necessary to convert to monthly rentals; which would be a loss in transient tax dollars to the State. People that come for a shorter period of time, spend a lot more dollars on activities, rentals, tourist attractions, restaurants; than people that are staying for longer periods of time. With short-term rentals; mostly all our tenants stay either ten days to two to three weeks.

Coming from a cold climate in Canada, we are constantly promoting the State of Hawaii, as versus Canadians going to Mexico.

We have considered purchasing a second unit for rentals and encouraged other people to do the same. If this bill is passed and we cannot self-manage; we will look for other investments, elsewhere.

Since there will be fewer buyers, real estate prices will fall. Falling real estate prices will result in more negative equity. Falling real estate prices will result in more foreclosures.

Thank you for your favorable attention to this very disturbing bill proposal.

Sincerely,
Arlie and Gail Jespersen
C408, Kihei Ali'i Kai
arlie@arlie.ca ; gail@arlie.ca

Amy Shepherd
9753 East Gelding Drive
Scottsdale, AZ 85260

Family Member of Owners
Manager of Condominium
Ekahi Village, #31D
Wailea, HI

March 10, 2011

Dear Mayor and Council Members,

My family owns a condominium in Wailea which I manage. I am writing this letter in OPPOSITION to Bill SB2089 which compels the use of "property managers" when renting property located in Maui, Hawaii. As a property owner and manager who has been renting our condominium on a direct basis for several years with absolutely no problems, I strongly disagree with the Bill for the following reasons:

- 1) **Owners, Not Brokers, Are Better in Choosing Renters.** Owners of property have a vested interest in selecting renters who will appropriately care for our properties during their stay. Brokers have no such motivation as they have no equity interest in the underlying property. As a result, if this Bill is passed the **quality of renters** will decrease and "problem renters" will increase.
- 2) **Decreased Tourism From Decreased Rental Properties.** Contrary to what is stated in the Bill, its passage will NOT increase rental income but decrease it. If this Bill is passed, many owners, such as me, will simply no longer rent their property as they will no longer be in direct control of deciding who rents our properties and be forced to allow a "middle man" broker make that decision. I will not delegate that responsibility and will simply no longer rent our condominium. That is likely to be the case with MANY property owners. So, not only will the quality of renters decrease but the **quantity of renters will also decrease** (and related tourism and rental income). That doesn't help Maui. It hurts Maui.

3) **Increased Operating Expenses for Rental Property Owners.** If this bill is passed, my operating expenses for renting the property will increase as, were I too continue renting the property, I would be forced to engage the services of a broker and pay them a commissions for doing a job that I WANT to do.

4) **Most Owners Report Rental Income WITHOUT Bill SB2809.** Like most owners of property in Maui who elect to rent their property, I am honest and report 100% of our rental income. I do so WITHOUT the existence of Bill SB2809 being in place. Passage of the bill will not change how honest people act.

5) **Law Breakers Will Still Be Law Breakers.** A stated reason for the Bill's passage is eliminating illegal rentals: owners who rent their property but do not report it to the state of Hawaii and Maui nor pay their appropriate rental taxes. Passage of this bill will not change the actions of dishonest owners: they will still look to skirt the law, rent their property, not report the rental income and not pay their rental taxes.

6) **True Motivation of the Bill is to Enrich Brokers.** It appears that the TRUE motivation of this Bill is simply to force property owners to engage and enrich "middle men" brokers registered with the Real Estate Association of Maui. Doing so may enrich them but it does nothing to benefit Maui, the property owners or their neighbors.

For the reasons stated above, I believe passage of Bill SB2809 would have detrimental impacts on Maui, decrease the quality of renters, decrease the number of rented properties and increase the operating expenses of the reduced number of renters that elect to keep renting when forced to engage a broker. As a result, I strongly oppose passage of Bill SB2809.

Sincerely,
Amy Shepherd

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members of the Committee on Commerce and Consumer Protection

RE: Testimony. SB2089 Committee Meeting March 12, 2012

Dear Chair, Vice Chair and members of the committee,

I strongly object to the introduction of SB2089, on the grounds that it is discriminatory, anti competitive and lacks any regard for the long term economy. The bill itself does not address the reasons for introduction which is enforcement of taxation.

1. Discrimination – If this bill passes we are being penalized for being non-resident and our ability to have access to/and dispose of our property under the constitution has been negated.
2. Anti Trust / Competition – This bill no matter its intention is designed only to support and protect an industry that was slow to change with the times. History can provide us with numerous examples of protectionism, which have served to draft the current Anti Trust legislation. One example is the Horse Whip industry who's members tried to ban the automobile in order to protect its market. A business must add value in order to survive and flourish. For us to pay a 30-50% commission to a third party in order to stay in compliance with the tax department is beyond the pale.

Having the Real Estate Commission be the sole arbiter creates not only a monopoly, but an environment where licensed real estate agents/brokers who are also rental property owners gain greater access to clients and may create a conflict of interest. If this bill passes I urge the committee to add "That no licensed real estate professional acting as a property manager for a non-resident owner, own or have any material interest in a transient rental property within the State of Hawai'i".

3. Economy - From an economic standpoint all investments are made with a reasonable "Rate of Return" in mind, thus real estate prices are set at a certain level, the extra level of expense will have an impact on both rental rates and real estate prices. When rental rates start to climb the remaining visitors who chose to vacation in Hawai'i will have less disposable income, the net effect will be to local restaurants and small businesses. The local economy will be the first casualty of this legislation.

Thank you for the opportunity to share my testimony,

Regards

Gary Sundberg
Property Owner
Honua Kai

10 Mar 2012

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members of the Committee on Commerce and Consumer Protection

RE: PROPOSED AMMENDMENT TO SB2089

Dear Chair, Vice Chair and members of the committee,

In order to insure that non-resident owners are treated fairly and are able to produce income to support their investment in an environment free of any conflict of interest, I propose the following amendment;

"That no licensed real estate professional acting as a property manager for a non-resident owner, own or have any material interest in a transient rental property within the State of Hawai'i".

Thank you for considering this amendment,

Regards

Gary Sundberg
Property Owner and Tax Payer
Honua Kai

Testimony In Opposition To SB2089 SD1

Dear Tourism Committee,

We are owners of Kihei Kai Nani #133 since 2004. Because we occupy our Maui condo for only 3 to 4 months a year, we choose to rent it out when we are not using it. In 2004 we registered as a TVR (for GE & TAT) with the Hawaii Tax ID Number W40891840-01 DBA KKN 133. We have made the GE and TAT tax payments every year. We have complied with our condo association requirement of providing an on-island representative contact. We provide advanced notification of our rental agreements to our condo association manager and our on-island representative. Our representative is not a licensed realtor but does work in the vacation rental field. We do not use our representative to collect any rental fees as we manage the rental by ourselves via Craigslist. Our representative is available to coordinate condo cleaning and repairs and answer our tenant questions.

We do not understand why the State has to legislate the need for a licensed real estate agent who will only complicate a process that has been running smoothly for 8 years. We can understand that the state would like to have all TVRs in compliance with state law. We don't agree that we should be required to hire and pay a licensed real estate agent for this purpose. We pride ourselves in providing a clean and comfortable condo in a great location at a reasonably affordable rate for those like us who are not in the 1%.

Please speak up for us to defeat SB2089 SD1.

Mahalo,

Jim & Pat Weber

1833 Dolphin Drive

Aptos, CA 95003

831-662-2481 (currently on-island via Vonage)

831-251-9084 cell

March 10, 2012

This letter is in **opposition** to **SB2089 SD1**.

I reside in California and own a condominium on Maui. We use the condo for our vacations and when we are not there, occasionally rent the condo to vacationers. Doing this allows us to make the monthly payments to the AOA making our ownership cost neutral. Due to the current economic circumstance throughout the world, many people have walked away from second homes. Doing so has created fiscal chaos for many individuals, lenders, and owner organizations (i.e. AOA). There is an abundance of properties available to rent in Hawaii making competition for renters fierce. When the supply is so abundant, the rental prices go down.

As it is, when we rent our condo, we do so at a low rental rate to make it attractive. If we make just enough money to pay the association dues and taxes we are satisfied. There is no real profit. We are law abiding citizens and always pay our occupancy taxes to the state of Hawaii.

SB2089 SD1 proposes to require nonresident owners to use a realtor for vacation rentals. Since we just make expenses, there is no money to pay a realtor. An example, "Chasing Rainbows", a condo rental company, wanted 40% of the rent, 40% for what I am already doing! If everyone followed rules and used a realtor to rent their properties, rents would seemingly go up at about the same rate throughout the state. That is not likely. There is a tremendous inventory of vacation rentals causing most condo owners to keep rental prices low to be competitive and most are not even at 50% occupancy. Adding 40% to the current rates just to maintain the status quo will push even honest vacation rental owners to cheat and the current cheaters will continue find a way around the law. Cheaters will receive an unfair advantage and you still will not get the taxes that you think are being withheld. This makes the whole process undoable for honest, tax paying owners.

1) Resident owners have just as much opportunity to evade taxes as nonresident owners, yet this bill puts an unfair burden on nonresidents.

2) **SB2089 SD1** does not allow me to preview who rents or occupies my home nor am I allowed contact with the renter (per another rental company that I spoke with).

3) **SB2089 SD1** favors a group of businesses opening up a new market opportunity to salvage a sagging real estate market on the backs of those people coming to the islands that help to keep the economy alive.

4) **SB2089 SD1** will create the opposite of what you hope to accomplish in that those who are barely hanging on to their now undervalued and overpurchased vacation homes to finally give in to the economy and walk away from their units. This will create more of a burden on the stressed AOAOs. In my building alone there are/were several real estate agents that had bought condos for speculation and rental that have now abandoned them. Now you are asking me to allow them to manage my unit? Additionally, fees that are not generated by the empty condos are added to those who are paying.

5) **SB2089 SD1** does not define what an exemption is or how long it takes to get one and how one qualifies for it.

6) Hawaii law already provides a process for GE and occupancy tax collection enforcement. If the process does not work, fix it. Don't contribute to the fiscal crisis and allow cheaters to prevail. If someone breaks the law, then fine them.

Simply put, if we are required to use a realtor to rent out our vacation rental, we will stop renting it out. If we stop renting it out, we will no longer receive the occupancy taxes we now send to the state of Hawaii. If we cannot afford to continue to maintain it without the renters, we will give it back to the State of Hawaii and spend our vacation money somewhere else.

Sincerely,

KathrynMcNitt
1118 Bush Ave.
Vallejo, CA 94591
707 322-0945

March 10, 2012

Tourism Committee

My husband and I Bundy and Denise Green recently purchased our dream property in Kailua-Kona. We completely remodeled the property and have successfully rented it via VRBO for the two years. This property is part of our retirement income as well as being able to visit our favorite island once a year since our honeymoon in 1998. Before we started renting the property I obtained a business license and have been paying taxes quarterly as instructed by the Hawaii Tax Code for property owners. Before we decided to use VRBO we pulled the prior 3 years of p & l statements from the property management company. It was absolutely shameful how much money the company was taking from the property owners. No wonder they sold their property. It would be a total shame to see this company completely take over all the owners units. **This bill if passed is obviously for property managers not property owners.**

We don't mind paying taxes but are opposed to having to use a property manager or real estate person because of the added cost. How can you target non-residents and not residents into the equation? Is this constitutional? Do you really want a new reason to chase away tourism that is starting to pick up by raising the costs of their stay on top of your already very high 13.42% tax? How devastating do you want to see tourism get? Also for the people that can't afford to keep their properties and will be forced to sell therefor flooding the market with more property thus bringing the prices down once again. Is this where we are going?

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand. Something is wrong here.

Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Develop brochures/material that all vacation rental owners have that clearly points out what is expected in terms of compliance.

Possibly support including tax numbers on all ads (if government ensures no identify theft threat) or another means to check to make sure people are paying taxes easily

This can be done by enforcing Hawaii's current laws.

Thank you for your consideration

Bundy and Denise Green

PO Box 4244 Brookings, OR 97415

Non-resident owners

Kailua-Kona

I would like to voice my opposition to SB2089 for the following reasons:

1. The majority of resident and non-resident property owners pay their TAT taxes. There is no evidence that this is a major problem. If this bill is truly about collecting taxes than go after the tax evaders, don't punish the honest law abiding citizens who are compliant.
2. There are already laws in place to enforce tax collections.
3. Resident and non-resident owners who rent out their properties privately are responsible and manage their properties well. They offer guests an affordable alternative to expensive hotels. This bill will take that away by adding 25-40% to the costs of doing business. This will decrease tourism and decrease TAT tax revenues.
4. Real Estate Companies do not do as good a job managing my property as I do. They have no financial investment in the property.
5. The bill violates the interstate commerce laws.
6. The bill violates personal property rights. Will the legislature pass laws next to make it illegal to sell by owner?
7. This bill will drive investors out of the state as it will give Hawaii the reputation as unfriendly to property owners.
8. This bill only benefits Realtors !!
9. What makes you think people operating illegally and not paying taxes will operate within the law and use a property manger?

Please do not pass this bill, it is not in the best interest of Hawaii, it does not promote Tourism. It will lower revenues.

Tom Smiley
3445 L. Honoapiilani Rd.
Lahaina, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Arthur
Organization: Individual
E-mail: darthur@deloitte.ca
Submitted on: 3/11/2012

Comments:

To: Hawaii House Hearing on SB 2089
From: David Arthur, P.Eng.
Position: Opposed

I am a Canadian citizen in the process of purchasing a condo on Maui with the expressed intent of offering it though VRBO for short term rental. I intend to pay all the GET and TAT required and I plan to have a representative on Maui looking after the property.

I do not intend to have a real estate professional represent me in this business endeavour after the transaction.

I hope that as part of the journey of this bill through the Senate and House that it will be subject to a Constitutional Review prior to sending it to the Governor for potential signing.

I believe that all of these measures (HB 1706, HB 1707, HB 2078 and SB 2089) are all unconstitutional. They all treat residents differently than non-residents.

I believe that they infringe on my right to enjoy my pending property and to rent it according to the laws without restricting how I do that.

I will pay my taxes; I will make sure my guests have good experiences. I do not need a real estate professional to help me with that.

Please vote no on this bill. It is poor business practice.

David Arthur, P.Eng.

I am writing to urge you to vote no on SB2089, this is an ill-conceived bill that is certain to decimate rental property values in Hawaii and reduce tax revenue for the State.

We are licensed property owners and small rental business operators who have invested in a Kapalua Golf Villa on Maui. Last year we paid a combined \$3,896.00 in 2011 & \$4,808.00 in 2010 in property, GE plus tax on all rentals of our property. We have paid every tax dollar owed since purchasing our unit in 2004. For the first one and one-half years as owners, we employed a local realty/property rental company, but found service provide our customers to be substandard, responsiveness to our needs as owners to unacceptable, and cost to us to be prohibitive. Often, the Real Estate Agents fees consumed over 50% of the monthly gross revenue. Without an alternative, our business would have failed and the State of Hawaii would lose most of the annual taxes we pay plus the taxes paid by those on island we employ.

The bill under consideration is poor legislation for many reasons:

1. The bill does not directly address the alleged problem. At issue is the enforcement of GE and TA tax payment. Fines, criminal prosecution, and penalties already exist to deal with tax fraud and we encourage the state to prosecute those who disobey the state tax law. Simply requiring all owner-renters to post their license in their property listings/advertisements would discourage tax-cheating owners. We encourage such action to create a fair, competitive free-market environment for us all.
2. Instead, this bill create a new crime requiring additional government agents to enforce: the crime of not hiring a Hawaiian-based Real Estate Agent to control our assets and manage our business. What other industry is required by the government to hand control of their business to outsiders whose sole function is to collect our revenues and take 25-50% for the privilege?
3. This bill applies only to those rental businesses owned by non-resident owners. We have uncovered no data indicating that non-resident owners are more likely to circumvent taxes than resident owners.
4. The proposed legislation makes no provision to reward those property owners that have honestly paid their GE and TA taxes all along, but penalizes all of us for the actions of a select few.
5. This bill would further reduce Hawaii's competitiveness as a vacation destination. It would create unnecessary inefficiencies and expenses to be borne by our customers and us as owners. Hawaii already has among the highest combined excise and lodging tax rates (13.42%) in the United States. Its distance from population centers and the cost of transportation create significant competitive disadvantages for the State. This bill will add yet another cost disadvantage in competing for vacationers' travel dollars.
6. This bill imposes an extraordinary burden on this select group of owners rendering Hawaiian real estate rental property less attractive. If this bill passes, it will force many owners to sell their rental property further pressuring Hawaii's already depressed real estate market. Lower values will translate into lower property tax revenues.
7. This bill represents an unfair government taking of property rights without due compensation to the owners. We calculate that the discounted cash flow cost of the net additional expense (with no benefit to our customer or to us) to be \$85,000. This

additional expense will be capitalized by the market place with a commensurate reduction in our property value, an approximate 15% reduction. Multiplied by the 186 units in our complex, this represents the destruction of property value in our small community alone of nearly \$16 million. We seriously question whether collection of additional GE and TA taxes from the Golf Villas will offset the loss in property taxes collected.

8. Finally, this bill is perceived by many as the very worst in cronyism, where the government rewards one constituency at the expense of another. Such action by government destroys the small business wealth-creating engine on which we all depend for our employment, our tax revenue, and our livelihoods.

Please vote no on this poorly conceived idea and protect Hawaii's property values.

Sincerely,

Donald G. Anderson

Sylvia H. Anderson

Kapalua Golf Villas 18 T 1&2

Kapalua, Lahaina, Hawaii

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose
Testifier will be present: No
Submitted by: Chris Bradley
Organization: Individual
E-mail: seavillagecondo@yahoo.com

Comments:

OPPOSED TO SB 2089 SD1

Chris Bradley

Homeowner in Hawaii and resident of California

The mission statement of the Hawaii Department of Taxation states:

“Our mission is to administer the tax laws for the State of Hawaii in a consistent, uniform, and fair manner.”

This would infer that these objectives should also have some influence over the Hawaii State Legislature for the Department to fulfill its mission. It appears to me that SB 2089 SD1 is not consistent with the Department of Taxation’s mission statement.

- In a system that relies on self-reporting, is it fair to punish those who comply in an attempt to identify and force compliance on those who do not?
- Is it fair, uniform, and consistent to take self-reporting away from one segment of the business community, leaving other segments that are involved in cash businesses to possibly continue to under-report their taxes? Should this policy not be extended to all businesses to be fair?
- Should business income not be paid directly to CPA’s who withhold the proper taxes?
- Should all cash transactions above a given threshold not be reportable to ensure tax compliance? Should this unnecessary burden not be equally shared?
- Is it fair to pass this legislation without a study of the financial impact that it might have on the individuals affected?
- What will the cost be to non-resident property owners to require property management?
- Is it fair, uniform and consistent for the Hawaii Legislature to substantially influence the way I do business, while no other businesses in the state are required to comply with similar laws?

“Our mission is to administer the tax laws for the State of Hawaii in a consistent, uniform, and fair manner.”

These words should have meaning. They should define an organization. I am disappointed in the Department of Taxation for failing to bring up the fact that SB2089 SD1 was contrary to their mission when asked for testimony. It is not too late to do the right thing.

SB2089 is once again an example of Hawaii government overreaching its authority by attempting to force property owners into using rental management services that are not needed or warranted. For years owners have been successfully managing their properties in Hawaii and by forcing owners into using on island rental management companies it will cause a wholesale exodus of off-island owners to the detriment of property values and tax revenues that this bill appears to be trying to increase. If the intent of this legislation is to increase tax reporting compliance there are alternatives to the heavy handed approach of forcing owners into using rental managers. Simply enforce the requirement that whenever property is sold that the new owners register with the state for GE and TA tax purposes. Then monitor compliance with regular reporting of revenue as is done today

- **This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets** - More study is needed by academics, accountants, lawyers and tourism personnel.
- **This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market** - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.
- **Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii.** - In addition to forcing current owners into default and foreclosure, a condo that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner.
- **Increased vacation rental costs will lead to decreased visitor numbers to Hawaii** - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- **Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii** - Vacation Rentals that are lovingly managed by their owner's foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and *personal* relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- **Owner managers provide a superior experience to Hawaii's Visitors** - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.
- **Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch** - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as its owner.

- **The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time.** - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mistreat their guest. Condos with negative guest reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.
- **Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis.** - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.
- **Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii** - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites.
- **Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.**
- **The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers** - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result in lost bookings and lost revenue for the State.

In conclusion, we support the State's right to collect its fair share of revenues generated by General Excise and Transient Accommodation Taxes and pay our taxes regularly. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursued and brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw the baby out with the bath water. Vote **NO** on **SB2089 SD1**.

Richard Dill/Kathleen Dill –Off-Island Owners
 Kamaole Sands Unit 7-404
 2695 S. Kihei Road
 Kihei, Hawaii

**Kathleen M. Pahinui
67-237 Kauai St
Waialua, HI 96791**

March 11, 2012

**RE: SB 2089 RELATING TO TRANSIENT ACCOMMODATIONS – NON-
RESIDENT OWNERS**

COMMITTEE ON TOURISM

Rep. Tom Brower, Chair
Rep. James Kunane Tokioka, Vice Chair

COMMITTEE ON INTERNATIONAL AFFAIRS

Rep. Karen L. Awana, Chair
Rep. Mark J. Hashem, Vice Chair

NOTICE OF HEARING

DATE: Monday, March 12, 2012
TIME: 9:30 a.m.
PLACE: Conference Room 312
State Capitol
415 South Beretania Street

Aloha Chair Brower and Chair Awana:

I support the efforts of this bill to ensure that non-resident owners are using a real estate agent to represent them and their property. This will ensure that the residents in the area have recourse in case of any problems with the renters of the vacation unit.

In addition, it ensures that vacation renters are able to contact someone locally if there are problems with the rental.

We need to ensure the quality of life of our residents and this is a big step in the right direction.

Mahalo,

Kathleen M. Pahinui
Resident, Waialua, Oahu

Ligia Martinez

I Oppose SB2089

I operate a vacation rental business here in Maui, I am a legitimate and respected business owner who pays all of my taxes promptly and this business is my livelihood.

I strongly oppose this legislation, as it would have a devastating financial impact on my business as well as countless other businesses. Mandating me to hire a third party and pay a commission on an already lean business is not at all viable. I may be forced to sell my business and take my substantial investment out of Hawaii.

The impact of such legislation would have severe impact on all of the islands as well as many related businesses. Across the islands there are thousands of vacation rentals by owner. Each individual business patronizes countless other businesses such as remodeling contractors, home stores, furniture stores, utilities and we have the highest property tax rates. My customers visit the islands and patronize many local businesses such as tour operators, restaurants, grocers, rental car companies and many more. All of these businesses will be affected. My customer's are budget oriented, many will no longer visit the islands and will go somewhere more affordable.

There must be a more reasonable way to insure collection of taxes due, putting so many businesses out certainly cannot be the only option.

Thomas Martinez

414-788-6334

Against HB2089

We own vacation rentals here in Maui and have paid GE/TA taxes since our initial purchase in 1998.

This type of small business supports countless other small businesses such as cleaning and maintenance services, remodeling contractors, home stores and furniture stores. Our customers patronize many other types of businesses such as restaurants, tour operators, grocers, rental car companies and many more.

Mandating us to use a realtor to manage our business could drive our costs up by 40%. We cannot raise our rates as our customers are budget oriented, they will not visit the islands which in turn affects all the related business, not just ours. The lower occupancy will lead to less taxes paid toward GE/TA and will without question drive some of us out of business.

I have to believe that the intent of this bill is not to drive small business off the islands but to fairly collect taxes that are due.

If there are individual businesses that are not reporting their income, this bill will not change that fact. It will only negatively affect those of us who are legitimate business owners. There are certainly many ways in which to enforce tax collection, imposing undue sanctions on law-abiding taxpayers should not be the answer.

GREG BRAZIL

733 Pomona Ave
Albany, Ca. 94706
510-527-6600
510-524-1448 Fax

Re SB2089 SD1 Amended

To whom it may concern;

I own vacation rental property on Maui and I am very much opposed the SB2089 SD1 Amended as currently written.

I agree everyone with rental property should pay the TA & GE taxes, as I have. This perceived problem of vacation rental property owners not paying the TA & GE taxes is an education problem, not an off island ownership problem. All counties should include in their property tax bills a flyer on the responsibility to file and pay their TA & GE taxes.

I believe this proposed bill is unconstitutional, as is only addressed off island owners of vacation rental property and not ALL owners of vacation rental property. Hawaii need to enforce existing tax laws, not pass an unconstitutional new law.

If this bill passes I believe this could slow down, if not stop the real estate recovery currently in progress.

Greg Brazil

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: R Stewart
Organization: Individual
E-mail: robstewart408@gmail.com
Submitted on: 3/10/2012

Comments: Oppose SB2089 SD1

I respectfully ask that you vote No on this Bill. This Bill is sending a message to everyone from all other 49 States and the country of Canada, as well as others, that we are not welcome in your state. Is this really the message you want to be sending to potential investors? The United States government is encouraging foreign investment - Hawaii is doing just the opposite. This Bill is based on the premise that a "sizeable" amount of nonresident owners do not pay GE and TA taxes.

This is a quoted message from the Tax Director taken from the Tax Department's website:

"One of my goals as Tax Director for the State is to ensure that our taxpayers have as much information as possible to submit their taxes accurately. The accurate payment of taxes ensures that there's enough money coming right back to our residents in the form of services. It also ensures that the State's tax laws are being applied accurately and fairly."

His goal is to ensure taxpayers (this applies to all whether resident or nonresident have as much information as possible to submit their taxes accurately.

So if his goal is for ALL TAXPAYERS to be able to have information (education) to comply with the laws on their own, WHY ARE NON-RESIDENT OWNERS treated different. We are told we are so noncompliant we need a whole set of laws that no other taxpayer in the state would have to submit to.

The last paragraph of the director's message is this:

"As a word of caution, since the inception of the Department's criminal investigation division in 1996, the industry with the most number of criminal tax convictions is the real estate profession. Criminal tax charges commonly arise from taxpayers neglecting to file their tax returns and submit taxes owed for several years."

So how did the real estate profession get selected to enforce tax compliance. It is the profession with the most criminal tax convictions. How would any legislative body select the profession with the most criminal tax convictions to be the enforcers of tax compliance?

It is the tax department's job to enforce tax compliance. Please let them do their job and enforce the existing laws.

This Bill is attempting to regulate nonresident owners operation of business through the mandatory "shall employ" broker, salesperson, property manager, condo hotel manager. The very ones you want to regulate us to garner more taxes for the State, are the ones the State says has the "most criminal tax convictions." I ask you please reconsider this.

I ask you to consider other means of tax compliance.

Please direct the Tax Department to educate us as they state their goal is for "all taxpayers." The Tax Department is gathering names and addresses from all county property tax departments with the objective to send a notice to all nonresident owners of their obligations to pay taxes if they rent transient accommodations. Could we please see if this results in an increased tax compliance. This is a method of education. Could we please be afforded the same educational opportunities as other taxpayers in Hawaii?

Why would a Bill for tax compliance now be under the jurisdiction of the Real Estate Commission. If one has not paid taxes, wouldn't this fall under the jurisdiction of the Tax Department?

The last amendment to this Bill now further restricts the condo-hotel nonresident owner's rights by limiting them to only use a condo-hotel manager. What would be the reasoning for such a limitation if one were to have to use a salesperson/property manager. Why would a person not have the freedom of choice of who to use?

This Bill (and its companion 1707) have shocked nonresident owners. We are stunned that we are viewed with such dim regard by property managers and the legislature - all assume we don't pay our taxes and to remedy that you will create a special set of laws that apply to only us.

Is it possible to choose a method of tax compliance that does not discourage investment in your state. Investors need to feel welcome and not accused of things they are not guilty of because of the acts of a few. We are treated as outsiders who are not welcome in your State.

Please change this before it is too late. Vote no on SB2089 and reconsider other options.

Respectfully submitted

Gale K. Vick

2075 Becker Ridge Road, Fairbanks, Alaska 99709

PH: 907-457-5797 CELL: 907-227-7442

e-mail: gkvsons@alaska.net

DATE: Sunday, February 26, 2012

TO: Hawaii State Legislature / Senate
Committee on Commerce and Consumer Protection

RE: OPPOSING SB 2089 (SSCR2043) A bill requiring any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit, or townhouse, to employ a property manager approved by the real estate commission.

Dear Members of the Committee on Commerce and Consumer Protection:

I am writing to oppose SB2089 requiring the use of a real estate commissioned property manager for non-resident owned transient accommodations. I find this measure short-sighted and discriminatory to the non-resident owner.

I am a long-time resident of the State of Alaska. As you already know, there are a great number of Alaskans who visit Hawaii on a regular basis. One of the reasons I have chosen Hawaii over other places is because I have friends who operate a VRBO (Vacation Rental by Owner) unit in Maui. I find this option extremely efficient and attractive for me, my family and friends. When I am in Hawaii, like so many others, I spend a considerable amount of money on food, fuel, transportation, services, events and gifts.

I believe that you will see a decline of tourists if non-resident owned VRBO's are required to employ a property manager. It is simple economics. Costs would increase, which would be passed along to the visitor, and flexibility would decrease. When VRBOs are operated by other than the owners, the unit becomes more like a hotel and less desirable. Myself and so many people I know in Alaska prefer the VRBO option precisely because we know the owners and word of mouth confirms the quality of our choice. It is a marketing tool that cannot be replicated through a real estate agency.

I am concerned that this bill may force many non-resident VRBO owners to sell their units. The owners of VRBOs are registered with the State of Hawaii, pay all taxes and fees, and comply with all local laws. They also hire local help, pay local utilities and buy supplies locally. The increased cost to non-resident owners may theoretically benefit local owners but I think it would just flood the real estate market with units no one can afford.

Please reconsider this bill and do NOT pass SB2089. Thank you.

Sincerely, Gale K. Vick

Opposing SB2089 SD1 Amended

Like many others, I am a non-resident owner of a condominium in Kauai. My wife and I purchased the condo in 2007 as we loved Kauai and one day dreamed of being able to spend part of our retirement there. Unfortunately, we are 20+ years from retirement, so the plan was to find a condo that would provide monthly rent to support the monthly costs of the condo. The only way we could make that happen was to manage the property ourselves through internet marketing and managing the reservations and payments at home. We employ a housekeeper and maintenance person in Kauai who ensure the condo and our guests are looked after. We have provided accommodations to over 150 families since 2007 without a complaint.

When we purchased our condo, we registered the property as a vacation rental and we diligently pay the transient accommodations taxes, excise taxes, and property taxes as they become due. As many others, we have a mortgage with a Hawaiian bank and pay over \$20,000 per year in interest payments. We also pay HOA fees of approximately \$8,000 per year which helps to provide employment to resort employees. We support local charities and businesses and "sell" the island of Kauai to everyone we meet. We love the island as if it were our own and we take our ownership responsibility seriously.

I am extremely concerned about the effects that HB1707 and SB2089 will have on me and my family. With the state of the economy and rising costs, we are losing money on our property as it is. Property management company's charge between 20% and 50% of the gross rents to manage a property. We can't afford to pay this. If this bill passes, we will be forced to sell (or possibly foreclose) the property. Prices in Kauai have dropped significantly since 2007 and we would be lucky to sell for enough to cover the mortgage balance (losing our 20% down payment in the process). The passing of this Bill will force rental prices up, reduce the number of rentals available, and ultimately reduce the tourism dollars and tax dollars flowing to the State.

The bill would take control away from me and put it in the hands of a third party. How can you justify legislating that revenue earned by my property must go to a 3rd party? How am I protected against the property management company not paying me on a timely basis or not paying me at all? The management company earns interest on my money, earns profit on any maintenance performed on my property, can charge any "administrative" fees they like, and provides less personalized service to my guests.

This bill is just a cash grab for property management company's who's rates are uncompetitive and services are less than stellar. Have you noticed that all the folks in favor of this bill will financially benefit from the passing of the bill?

You don't have a problem with the tax system, you have a compliance problem. How can you better enforce the rules that you do have in place?

- Provide each non-resident owner who is filing their taxes with a distinct number and make us display that number on our advertising. Scan the most popular websites (vrbo.com, homeaway.com, etc.) and contact the owner's not displaying the distinct number. Require us to keep our online calendars up-to-date and visible (most of us do this already).

- Require realtors to disclose to the government transactions where the purchase of a property is for investment purposes. Alternatively, create a schedule to attach to all real estate purchase agreements where the buyer declares that the property won't be used for short-term rentals and attach a significant penalty for misrepresentation.
- For each real estate transaction involving a non-resident. Send a tax package to the buyer with information relating to their responsibilities as an owner. Again, make them sign a declaration if they're not using the property for rentals.

I don't understand how a Government can consider passing a Bill that punishes ALL non-resident property owners. **What makes you think that passing this bill will help you find the folks not paying their taxes? How will you enforce this? Why would enforcing this be any different than enforcing the current rules, which apparently aren't being enforced?** In my opinion, passing this bill will only impact those of us already abiding by the law.

I am not the problem. I am paying my taxes. I treat the island and its people with respect. Why am I being penalized? **Please look for other options to deal with those not paying their fair share. Don't punish those of us who are doing the right thing and abiding by the laws that are in place.**

Mahalo for your time,

K. Page
Resides in Canada
Owner @ Pono Kai Resort
Kapaa, Kauai

March 9, 2012

TO: Committee on Tourism
Representative Tom Brower, Chair
Representative James Kunane Tokioka, Vice-Chair

FROM: Carl Hardin
Board President
Various Hawaii Timeshare Associations

DATE: Monday, March 12, 2012
Conference Room 312
9:30 a.m.

RE: SB 2284, SD1 Relating To Residential Real Property.

Chair Brower, Vice-Chair Tokioka and Members of the Committee:

Please permit me to submit this testimony IN OPPOSITION to the above-captioned measure, which would allow any timeshare owner of a resort in Hawaii to obtain a copy of the timeshare association's highly confidential list of thousands of timeshare owners at the project, including owner names and home addresses (in most cases), all by the simple act of submitting a signed form to the plan manager. Granting such a right would have serious negative repercussions, such as (1) jeopardizing the privacy rights and expectations of all timeshare owners in the project and (2) making timeshare owners' lists permanently available to (a) any individual willing to sign the requisite form, regardless of their true motives for requesting the list [in general], and (b) unscrupulous out-of-state timeshare resale agents [in particular].

I was a resident of the State of Hawaii from 1978 to 2002. I worked in the timeshare management industry from 1981 to 2001. I have worked in the timeshare development industry since 2001. I currently serve as the president and member of the board of directors of seven (7) separate timeshare plans in Hawaii representing over 29,000 timeshare owners residing throughout the United States and the world.

With over 20 years of experience in various capacities in the timeshare management industry I have had the great pleasure of working with thousands of timeshare owners. If experience has taught me anything about what our timeshare owners want, it has taught me that timeshare owners want to (1) understand what they purchased; (2) know how to make the most of their vacation experience; and (3) receive assurances that (a) their resort is being well maintained and managed in the most efficient way, and (b) their personal information is held in the strictest of confidence. With the foregoing in mind, my concerns with SB 2284, SD1 are based upon the following knowledge and experience:

First, most timeshare owners purchased with the expectation that their personal information would be kept confidential. This expectation of privacy is reinforced by

developers at the point of sale. In addition, the expectation of privacy has even been recognized in the Hawaii Administrative Rules for decades.

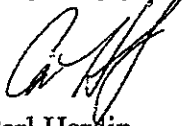
Second, owners are very concerned about spam and/or scams that result when their personal contact information is released. For example, owners continually complain about being contacted by timeshare resale marketing firms, many of which will take advantage of the language contained in SB 2284 SD1 to purchase or illegally acquire their resort's owners' lists. Owners also complain about solicitations from transfer companies and travel clubs that contact them with intimate knowledge about their existing ownership coupled with false or misleading statements in an attempt to generate business.

Third, I am not aware of another state that allows for this type of access to owner names and addresses. Many timeshare owners own property at multiple resorts in various states. As such, the access contemplated by SB 2284 SD1 will definitely cause owner confusion as different management companies apply different standards to the personal information of our owners.

Fourth, as I exercise my fiduciary duties as a officer and director of various timeshare associations to protect owner information I am very concerned about the potential for conflicts between the language contained in SB2284 SD1 and (1) my fiduciary duties and (2) other state and federal laws protecting the privacy rights of other timeshare owners. I can anticipate that my associations will find themselves involved in litigations with its owners over the release of owner names and addresses if SB 2284 SD1 becomes law.

For the foregoing reasons we ask that this bill be DEFERRED. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Carl Hardin', written over a horizontal line.

Carl Hardin

- ☒ HB 1707 has already been defeated in the House because of its illegality. Please follow suit with SB-2089 SD1.
- ☒ Our family has owned one or two vacation rental condos in Hawaii for over 30 years. We have always collected and remitted all sales taxes accurately and on time.
- ☒ The perception that vacation rental operations are highly profitable is false. Homeowner fees, housekeeping, maintenance (all of which are supporting Hawaiian employment), interest and property taxes are extraordinarily high compared to other regions in North America.
- ☒ In the County of Maui transient rental owners already pay 6 – 8 times higher property taxes than permanent residents living in matching accommodations.
- ☒ By legislating away the rights of owners to manage their own properties this legislation will damage tourism. With increased fees from Rental Property Managers rental rates will certainly increase just as the country is trying to emerge from the economic downturn. This will negatively impact tourism just as the press is celebrating the January 2012 visitor figures finally reaching levels of 2006.
- ☒ Independent owner / managers have a vested interest in delivering a quality rental product and vacation experience to Hawaii visitors not shared by Rental Property Managers.
- ☒ Visitors facing a cost increase will choose to go elsewhere or will shorten their stay with the only beneficiary being the Rental Property Manager.
- ☒ While there are laws in place to deal with sales tax collection and filing there could also be provisions put in place that would require owners to post their business license or tax ID number in their advertising which would allow for greater accountability.
- ☒ The Hawaii taxpayers, Hawaii employment and the Tourism industry would be better served with the modest investment in audit staff to use cost effective software and systems to identify and follow-up on non taxpaying independent owner / managers and manage enforcement.
- ☒ Both the Hawaiian Association of Realtors and The Hawaiian Real Estate Commission have come out against these Bills 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.
- ☒ At all levels of government, whether it be state or federal, the consequence for not paying taxes when due is to impose interest/penalties on past due amounts. If it is 'willful fraud', the agency will then pursue criminal action. At no level does any other government agency require that your salary/income be received by a third party. We all are bound by law to pay taxes that we owe and if we do not comply, those same laws impose penalties (interest, fines, or jail for fraud). Hawaii already has laws that require any person selling accommodations to collect Transient Accommodations tax (TAT) and GE tax. If there is a non-compliance of that law, the "crime" is for not paying one's taxes.
- ☒ The following legal opinion against HB 1707 was sent Feb 21, 2012 to Representative Oshiro and it is equally applicable to SB 2089:

o <http://dl.dropbox.com/u/18145193/Legal%20opinion%20-%20Ltr%20to%20Rep%20Oshiro.pdf>

Thank you.

Martin & Donna McConnell

March 10, 2012
David L Towry Sr.
Pamela J Towry
konayogi@msn.com
pitowry@hotmail.com

Re: SB2089

We oppose this as amended

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

PLEASE READ THIS LETTER TO THE END.

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

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

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

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

- *Tourism industry in Hawaii*
- *Vacation rental rates*
- *Property Values*
- *Would actual tax compliance improve or would it diminish?*
- *Will more tax revenue actually be generated?*
- *Will price gouging occur by Property Management Companies because they now have a **mandated captive market***
- *Will the actual management of these properties improve or diminish?*
- *Are there enough Real Estate and Property Management companies to take care of everyone?*

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

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

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

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

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

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

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

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

What is needed is a citizen's task force made up of representatives from all interested parties to come up with a plan to enforce tax compliance. It is imperative that all interested be represented. There is a good solution, **however SB2089 is not it. Please Start Over.**

I would not even mind a third party that would collect the rents using a client trust account. They could do the accounting, GET and TA reporting, periodic payments and disperse payments to owners. They would act in the same capacity as a collection agent that reserved for property tax and insurance on land sales contracts.

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

SB2089 is NOT the solution!

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

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

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

Respectfully submitted on March 10, 2012 for your consideration,

David L Towry Sr & Pamela Towry

konayogi@msn.com

pjtowry@msn.com

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members of the Committee on Commerce and Consumer Protection

RE: Testimony, SB2089 Committee Meeting March 12, 2012

Dear Chair, Vice Chair and members of the committee,

With all due respect, I strongly object to the introduction of SB2089 as I feel it's anti-competitive, discriminatory, and creates the prospect of negatively impacting the long-term economy. The bill itself does not address the reasons for introduction, which is enforcement of taxation.

- Anti Trust – This bill, no matter its intention, is designed only to support and protect licensed Hawaii real estate brokers or salespersons. Creating a monopolized industry to police the collecting of Hawai'i TA and GE tax. It is clear the industry is motivated in passing SB2089. They have brought in the best to persuade the Committee that individuals renting units on their own via the Internet create the prospect that many homeowners won't obtain TA and GE tax licenses. I suspect they are motivated because of declining revenues. Passing SB2089 will force homeowners to pay a 30-50% commission to a third party in order to stay in compliance with the tax department, which is beyond the pale.

Having the Real Estate Commission be the sole arbiter creates not only a monopoly, but an environment where licensed real estate agents/brokers who are also rental property owners gain greater access to clients and may create a conflict of interest. It creates an environment of complacency. If this bill passes I urge the committee to add "That no licensed real estate professional acting as a property manager for a non-resident owner, own or have any material interest in a transient rental property within the State of Hawai'i".

- Discrimination – If this bill passes we are being penalized for being non-resident and our ability to have access to/and dispose of our property under the constitution has been negated.
- Economy - From an economic standpoint all investments are made with a reasonable "Rate of Return" in mind, thus real estate prices are set at a certain level, the extra level of expense will have an impact on both rental rates and real estate prices. When rental rates start to climb the remaining visitors who chose to vacation in Hawai'i will have less disposable income, the net effect will be to local restaurants and small businesses. Not too mention the potential shift in investment momentum; 'if you're thinking of investing in Hawaii, think again'. This bill may have an undesirable backlash. The local economy will be the first casualty of this legislation, and you the committee will be responsible to your constituency.

Thank you for the opportunity to share my testimony,

Mahalo nui loa

Helene Sundberg
Property Owner
Honua Kai

SB 2089 S.D.1 will hurt consumers. Will hurt Hawaii tourism. Will hurt Hawaii real estate

I
applaud
the

effort to collect all taxes due, but this bill will not reach that goal. Instead, it will hurt consumers/tourists, Hawaii tourism, and Hawaii real estate.

If off-island owners who are now managing the advertising and booking reservations for their rental property themselves, are forced to hire a property manager – who charge between 25-40% of the rent – they will need to raise rental prices to make up for their increased costs. Tourists who rent vacation condos and houses do this mainly because of the lower costs, so they will stay away from Hawaii.

If off-island owners cannot raise the prices to make up for their increased costs, they will have to sell their properties. This will prolong the crisis in Hawaii's real estate and keep revenues from property taxes low, to boot.

If the bill is meant to protect consumers, then it fails at that. Consumers/tourists want to rent vacation accommodations that are as advertised. It has been my direct experience renting twice from professional property management firms in Maui that the firms did not know the actual condition and amenities in the condos they rented to me, and both condos were not in the condition they should have been and were advertised as. With private owners advertising their properties on VRBO, or Homeaway, or any of the many other web-based services, a consumer can read actual reviews from other renters of the properties, and make a far more informed decision. I have rented from owners directly many times, with excellent results, and I am as of recently the owner of a condo on Maui that I have rented out since January 2012 and advertise on VRBO myself. (With the required business license, GET and TAT tax payments, and a license realtor on Maui who is paid to be an on-island contact for my renters.)

My personal experience renting vacation rentals from property managers in Maui resulted in renting 1) a condo that did not have the amenities it advertised and 2) renting another condo that was filthy and had a broken TV which was not fixed for my entire stay. After that I have rented from owners – who know their condos to the last detail.

The bill is also completely unclear: it says that a real estate broker has to be employed. But **employed to do what?** To advertise the property? To make bookings? To field inquiries from prospective renters? To hire and manage the cleaning staff? To manage the repairs? To take rent payments? To send thank you notes to renters? To solicit renter's reviews of the property? To welcome renters to the property? To be available in case of questions? Any of the above? All of the above?

It appears that I will be exempt from subsection (a) of the bill. Except that I cannot file **federal tax form 990** – I am not a non-profit organization, nor am I tax-exempt. I assume that the bill should require proof that I have filed federal tax form 1099 for any people who have been paid over \$600 for their services.

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Andrea Butter
Organization: Individual
E-mail: aaquitaine@yahoo.com
Submitted on: 3/10/2012

Opposed to SB 2089 SD1

To Whom It May Concern: 2089 SD1, Tourism Committee March
12th 9:30 am

Our family has rented condos (and paid tax!) from people who own condos in Maui and Kauai for over 20 years. We love the personal nature of the rental experience when we deal with the owners directly, and also appreciate the fact that the prices allow us to visit the beautiful islands more often.

When we heard about this possible change in laws, we were very concerned. If the prices are affected and owners can no longer rent directly, the rent will go up and we will not be able to afford as many vacations to the islands. When we have rented through a property management company, we found the costs higher, and the management company much less concerned about the quality of our stay. Dealing with the owners has been delightful and our experiences have been wonderfully personal.

We love Hawaii and love the people we rent from. We know that we pay the taxes and we also know that the condo owners remit the taxes (we know as we asked!!). Please think this over and reconsider this very unfair bill. Our hope is to continue visiting the islands and dealing with the wonderful people that own the condos directly.

Sincerely,

Mary-Lynn Bellamy-Willms
53 Tovey Crescent
Victoria, BC
V9B 1A4

Fr: Doug Kaye
To: Senate Tourism Committee
Re: Opposing SB2089 SD1 Amended
Dt: March 10, 2012

I am writing in opposition to SB2089 SD1.

My wife and I are California residents who own two condos on Maui. We used to rent them through an on-island agent, but two years ago we decided to rent them on our own. Not only was it too expensive to use the realtor, we also had too many complaints of poor service from our guests.

We file and pay GE and TAT taxes every month. We file and pay Hawaiian State income taxes annually. Every other condo owner we know does likewise.

While we don't have an on-island licensed realtor, we do have contracts with on-island housekeeping and maintenance services. Our guests know exactly whom to call in case of any problems.

Adding a licensed realtor to this mix would simply reduce our margins to the point where we could not afford to rent our condos at a reasonable price.

I believe this bill is merely protectionism sponsored by the realtors. I don't believe anyone has adequately proven that substantial taxes are going unpaid. What I heard was "we don't know." In any case, forcing owners to work through realtors is not the way to ensure compliance.

At the very least, anyone who pays all their taxes should be exempt from this requirement. After all, if you find someone not paying their taxes, it's just as easy to force them to pay the taxes as it is to force them to use a realtor.

Thank you for your consideration.

Doug Kaye
Cessna Kaye
113 Terrace Ave
Kentfield, CA 94904
415.453.1400

RE: Opposition to SB2089 SD1, Amendments to Chapter 237D of the Hawai'i Revised Statutes

Dear Representative:

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

There are different interpretations of the amendment as written, and the states web site has not been maintained to the level that would keep constituents properly informed: it is not clear to me if a realtor must be hired to accept money and manage the property, or if the realtor is only required to submit our names and locations to the tax collector at the end of each year. If the latter is true, then I am not in objection to that portion of the bill. As long as I don't lose control of my home and business, I can live with the regulation that an agent be charged with simply submitting my name and location yearly to the state.

I also take exception to the "findings" by the Consumer Protection committee: "...there are a sizeable number of owners who do not [pay taxes]". There is strong evidence to the contrary

submitted in testimony to these proceedings, and supporting evidence is anecdotal.

Furthermore, I think Section E is unworkable:

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

Here's a solution that might work instead of section E: allow us to register the properties we own and our emergency contacts for each property (confidentially) under our tax ID number, and we post that number on all advertising. If the state finds this tax ID on any advertising, they can compare it with the known properties, and see if somebody is spoofing (trying to use our tax ID as if it were theirs). Furthermore, require that only the ID's owner can authorize the use of this ID, and provide penalties for unauthorized use... and make all those bait-and-switch web sites illegal.

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

Sincerely,

Chris Worley

Proposed Amendment to SB2089

The reasoning behind SB2089 is clearly twofold:

1. Help an ailing outdated industry (the property management “middle man”) that has been supplanted by small businesses on the Internet, and
2. As the state’s tax collection folks are admittedly (from their testimony at HB1707 hearings) incapable of mining their own data, which would easily find tax cheats, absolve them of their responsibility and hope that local companies directly affected by the Internet business model will more effectively collect taxes.

Therefore, this is really not a “Transient Accommodation” bill; it is a revenue-generation and stimulus bill aimed at halting Internet-based businesses that are supplanting local businesses.

Sales tax losses due to Internet sales dwarf any losses from GET/TAT transient rental losses.

Given the estimated loss in state sales tax collection in the hundreds of millions of dollars, and billions in loss to local “brick-and-mortar” store sales due to Internet on-line tangible good sales, the following amendment is proposed to SB2089...

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

March 10, 2012

Tourism Committee

My husband and I Bundy and Denise Green recently purchased our dream property in Kailua-Kona. We completely remodeled the property and have successfully rented it via VRBO for the two years. This property is part of our retirement income as well as being able to visit our favorite island once a year since our honeymoon in 1998. Before we started renting the property I obtained a business license and have been paying taxes quarterly as instructed by the Hawaii Tax Code for property owners. Before we decided to use VRBO we pulled the prior 3 years of p & l statements from the property management company. It was absolutely shameful how much money the company was taking from the property owners. No wonder they sold their property. It would be a total shame to see this company completely take over all the owners units. **This bill if passed is obviously for property managers not property owners.**

We don't mind paying taxes but are opposed to having to use a property manager or real estate person because of the added cost. How can you target non-residents and not residents into the equation? Is this constitutional? Do you really want a new reason to chase away tourism that is starting to pick up by raising the costs of their stay on top of your already very high 13.42% tax? How devastating do you want to see tourism get? Also for the people that can't afford to keep their properties and will be forced to sell therefor flooding the market with more property thus bringing the prices down once again. Is this where we are going?

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand. Something is wrong here.

Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Develop brochures/material that all vacation rental owners have that clearly points out what is expected in terms of compliance.

Possibly support including tax numbers on all ads (if government ensures no identify theft threat) or another means to check to make sure people are paying taxes easily

This can be done by enforcing Hawaii's current laws.

Thank you for your consideration

Bundy and Denise Green

PO Box 4244 Brookings, OR 97415

Non-resident owners

Kailua-Kona

Comments Opposing Bill SB2089 SD1 amended

There are many downsides to this bill not the least of which will be the unintended consequences of loss of livelihood to people presently managing properties and the loss of taxes to the state from properties removed from the market. This bill may serve to benefit a few realtors and salespeople that are presently proposing and supporting the bill. But what will be the eventual cost and negative impact to the present property managers who are hired by the non-resident property owners to oversee their properties?

The intent of this bill is to catch a small percentage of errant property owners who are not paying the appropriate taxes. Why are the non-resident owners being discriminated against? I speculate that there are resident owners that are working under the radar. If this bill is passed, the resident owners will have a distinct advantage over the non-resident owner since the cost of doing business is much less for them. We will not be able to be competitive since we will need to raise our rates to help offset realtor/property manager's fees.

In the time we have been renting our property to vacationing visitors to Hawaii, we have collected and paid over \$17,000 in general and transient taxes to the State of Hawaii. We feel personally insulted that we as a non-resident owner will be forced to hire a middleman over whom we will have little or no control. Our resort had a management company that private owners could **choose** to use if they did not want to handle their own rental unit. This company went bankrupt and did not pay the owners or the taxes that had been collected. The owners had to pay the taxes.

We handle all our own bookings thru VRBO and Homeaway and by word of mouth from people who have stayed at our condo. We send our guests a reservation contract stating the rates, taxes, cleaning fee and cancellation policy. We also send them an information letter which contains information on the condo and resort. Our on-island housekeeper makes sure that the condo is ready for their stay and is readily available if the guest has a question or if something needs to be repaired.

We contact our guests during their stay to make sure if everything is all right. We have many guests that return because their past experience was wonderful. If our guests are celebrating a special occasion such as an anniversary we have a bouquet of tropical flowers along with a personal note from us. We do care and pride ourselves in giving that bit of special attention to our guests.

If this bill is passed, we will have no other recourse than to withdraw our unit from the rental market. The cost to the state from us alone will be the loss of approximately \$4000 per year in tax revenue and one housekeeper with one less client. This bill is blatantly unfair. There are enforcement provisions and fines on the property owner yet there are no limitations or consequences on errant realtors or salespeople. They are free to charge what they please and there are no consequential damages for their non performance of the implied fiduciary duties if they fail to perform.

Please vote no on Bill SB2089 SD1 amended

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Anthony Cooney
Organization: Individual
E-mail: ascooney10@comcast.net
Submitted on: 3/10/2012

March 10, 2012

Nina Nychyporuk and Richard Waugh
2780 Cultus Court
Coquitlam, BC
Canada V3C 5A8

Members of the House of Representatives
Committee on Tourism
Committee on International Affairs
Committee on Commerce and Consumer Protection
Committee on Judiciary

Re: OPPOSE SB 2089 S.D.1

Honorable Members of the House of Representatives,

Thank you for the opportunity to provide testimony with respect to Senate Bill 2089 SD1. Our names are Richard Waugh and Nina Nychyporuk.

We oppose Bill 2089 SD1 on the basis that the Bill represents unconstitutional discrimination against non-resident property owners.

We believe this Bill serves a purpose and that purpose is to transfer wealth from non-resident owners of transient accommodations to resident property managers and licensed agents.

SB2089 SD1 and other recent similar Bills progressing the Legislature may also be in violation of the North American Free Trade Agreement (NAFTA) as non-resident owners who are Canadian investors in Hawaii will receive treatment less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors. More specifically, NAFTA Article 1102 states:

National Treatment

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

investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

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

4. For greater certainty, no Party may:

- (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
- (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

With respect to the taxation issue, what empirical evidence has been presented to the House to prove that a *sizeable* number of owners of transient accommodations do not comply with the requirement to collect and submit the transient accommodations tax (TAT) and the general excise tax (GET) on short term rentals?

What empirical evidence has been presented to the Committees to support the assertion that tax enforcement efforts are hampered when the owner of a transient accommodation lives on a different island or out of state?

The Department of Taxation confirmed in its own 2007 testimony on Bill HRS 273D-13 that “in general, those that rent transient accommodations are tax compliant.” What new evidence is there from the Department of Taxation that proves otherwise that non-resident owners are not tax compliant?

The Bill will force non-resident owners to employ a real estate broker or salesperson licensed under chapter 467 to collect rents on their behalf. This Bill violates the most basic and fundamental right to own and dispose of privately-held property, including the right to use, sell, *rent as we see fit*, mortgage, transfer, exchange or destroy, *or to exclude others from doing these things to our property*. This Bill is discriminatory and represents a violation of non-resident owner’s fundamental property rights to exclude others from the process of renting their property.

The Bill also violates *United States antitrust law*. The legislation imposes a *restraint of trade* on independent owner-operators by granting real estate brokers and salespersons the *exclusive* right to market, rent and collect taxes on vacation rental properties in Hawaii. This Bill will harm non-resident owners by restricting their freedom of choice in determining how they rent their property.

This Bill purports to foster consumer protection in Hawaii's transient vacation rental market, particularly in cases of emergencies and natural disasters, by forcing non-resident owners to employ real estate brokers and salespersons licensed under chapter 467.

What studies or evidence have been presented to the Committees to support the assertion that only real estate brokers or salespersons licensed under chapter 467 are better able to respond to guests during emergencies, natural disasters or any other issues? Not all real estate brokers or salespersons have staff on call 24 hours a day. Independent owner-operators, on the other hand, are on call 24 hours a day. A guest can send us an email or phone us any time of the day, 7 days a week. Moreover, consumer protection measures already exists within other legislative and regulatory bodies such as the Department of Commerce and Consumer Affairs.

This Bill will allow real estate brokers and salespersons licensed under chapter 467 to profit from the significant investments of non-resident owners. Real estate brokers and salespersons have no vested interest in the property of non-resident owners. They have made no capital investment and are not exposed to any risk of loss. **This Bill is nothing more than an attempt to transfer wealth from non-resident owners to real estate brokers and salespersons, under the guise of consumer protection, by forcing non-resident owners to employ real estate brokers and salespersons to carry out a function of their business.**

Property managers and salespersons who support this Bill argue that the internet has ruined their business. One could also say that mass production of automobiles "ruined" the horse and buggy industry. They claim, without providing any independent, quantitative or verifiable evidence, that independent owner-operators undercut their nightly rates by "1/3." Yes, the internet has impacted the tourism industry's vacation rental sector by lowering prices for consumers and distribution costs for vendors. Again, it is not the role of state legislators to interfere with competition in the marketplace. Hawaii state legislators have no power to turn back the clock, or to legislate away market forces that are dynamic, competitive and responsive to innovation and technology.

If property managers and salespersons in Hawaii are unable to compete with new entrants, then they need to charge more reasonable management fees or exit the industry. Legislators have no business interfering with the natural causes and effects of an efficient marketplace, particularly when such intervention creates an unfavourable competitive advantage for a small minority.

This Bill requires non-resident owners to post their local agent's personal and private information concerning with their homeowner association and in their advertising. Have state legislators considered the fact this aspect of the Bill is a **breach of privacy rights** that serves no useful purpose?

The Department of Taxation's unfortunate position on this issue is that they are not in the business of "web crawling." If the Department of Taxation is not in the business of tax collection, then the state legislature has far more serious problem to address. The

existing legal and regulatory framework has numerous provisions that grant tax officials the authority to enforce compliance. Whether the problem is a lack of resources or a lack of competence (or a combination of both), it is obvious that state legislators need to remind the Department of Taxation to adapt to the realities of the marketplace and do its job as it seemed it was capable of doing in 2007.

We encourage all representatives to consider the following questions as they debate this measure:

- Have state legislators considered creating an independent task force, comprised of various stakeholders tourism industry and vacation rental sector, to determine the extent of the problems that have given rise to this Bill?
- Have state legislators considered the motivations of the small cadre of real estate brokers and licensed agents who lobbied for this Bill?

We urge you to work within the existing legislative and regulatory framework, or consider establishing a task force comprised of independent vacation rental owners, property managers, realtors, state regulators and other tourism industry stakeholders. Stakeholders who are willing to work in collaboration have a better chance of developing an effective solution than legislation that is designed to transfer wealth from non-resident owners to real estate brokers and licensed salespersons.

We kindly ask you not to pass SB2089 SD1.

Sincerely,

Nina Nychyporuk and Richard Waugh
Non-Resident Owner-Operators and Visitors

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose
Testifier will be present: No
Submitted by: Shelly Siegfried
Organization: Individual
E-mail: shelly.siegfried@gmail.com

Comments: Opposing SB2089 SD1 Amended

I am writing to you to voice my opinion regarding SB2089 D1. I am adamantly against such legislation being passed for a number of reasons.

First of all let me say that I fully support paying taxes. I have owned property on the Big Island and have faithfully paid my excise and transient taxes each year. In addition I pay property taxes to the state of Hawaii each year as required by law.

I am adamantly opposed to inserting property managers or realtors into the equation. This makes no sense at all and I believe this law to be unconstitutional as it targets non-residents instead of residents. If the issue is not collecting all of the excise and transient taxes you are due, then go after the people who are not obeying the law instead of punishing those of us that do obey the law.

Vacation rentals have dramatically decreased since 2005 and now in 2012 tourism is making a comeback. Passing this bill is likely to have a devastating effect on it the comeback.

This legislation will make it so owners cannot afford to keep their properties and would have to sell. Do you really think the local and state economy can withstand a flooded real estate market? Property values will decline dramatically thus reducing the tax amount collected for each property. As a result, not only have you not solved the first problem, but you've also created a second problem.

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

I am appalled that the Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand.

As a property owner I am a strong ambassador for Hawaii. I have had many guests choose to vacation in Hawaii simply because they know me and trust that they will have a wonderful stay at my condo.

Instead of passing legislation that clearly discriminates law abiding citizens, perhaps you should focus on developing a thorough understanding of the perceived problem first. Then provide the public evidence of where and why the issue exists.

Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Develop brochures/material that all vacation rental owners have that clearly points out what is expected in terms of compliance.

Please do not ruin what is a good thing for both vacation rentals by owners and their guests who abide by the laws and pay their taxes, are strong ambassadors for the state of Hawaii.

Mahalo,

Shelly Siegfried

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: james e schwanke
Organization: Individual
E-mail: jesvest1@yahoo.com
Submitted on: 3/10/2012

Comments: To Hawaiian State Legislature

March 10 2012

Re Bill SB 2089

Dear Legislators,

I am writing to oppose SB2089 because it would significantly reduce the value of my owner-rented condominium in Ekahi Village on Maui.

I currently self-manage with the help of a local cleaning/inspection company. I do all my own booking on line and pay my GE and TA taxes quarterly to the State of Hawaii.

In the past year I paid over \$6000 in TA/GE taxes.

If I had to pay a formal agent to manage my property it would cut my net income in half; greatly reduce my role in selecting acceptable tenants for my part-time residence and probably degrade condition of the unit because my inspection oversight would become indirect.

Given my purchase of unit in May 2008 I'm already strained to make mortgage payments on property worth 20% less than I paid.

If your bill passes I will probably sell the unit thus probably further reducing property values in my complex.

Your bill would endanger the continuing employment of my current cleaning service as well as maintenance people which is now provides some \$20,000/year to Maui economy.

The rental market has been difficult past 4 years and is only now beginning to fill the many rental units available.

I view this bill as a means of disadvantaging small owner/managers of condominiums in favor of large hotels who already have many marketing advantages.

Overall your bill is negative for the tourist industry as it will reduce choice for vacationing renters.

Sincerely, James Schwanke, MD

March 10, 2012

SUBJECT: SB2089 SD1 - Opposition

The additional costs of having a realty manager collect taxes and “manage” direct owner booked units will have several deleterious effects:

1. It will increase my costs so much that I will have to raise prices which will reduce bookings. It will be devastating for a finally-improving tourism industry. The increased costs will take many units, including mine, out of the – well we can barely make airfare and with this good deal, we can also afford to stay somewhere – realm into – it’s just too expensive to go.
2. More units will be placed on the already dead sales market. Foreclosure will happen.
3. Tourism will suffer. Period. High air fares are already a problem. No one will gain by this except real estate managers who sponsored this bill for their own self-interest. Taxes will go DOWN because owners won’t have bookings or will lose their units.

What are other options available to the state:

1. Obtain verified information about how many owners are not paying taxes.
2. Be more vigilant about finding and fining owners who aren’t paying. You can put liens on the property of those owners.
3. If you must pass this bill, clarify the exemption in the amended bill. Those of us who have been completely law abiding should not be penalized because of others.
4. Take a look at complaints about the very people you’re benefitting with this bill. Not all are dishonest but many do not keep up units they manage, do not go for maximum rents (which means lost tax revenue to Hawaii) and do not have the rapport with internet bookers that we owners do. We are Hawaii’s best ambassadors to tourists and you don’t pay us. Don’t disable your best tool for increasing the tourism industry.
5. Educate direct owners. Use websites; use notices; use easy to find forms on the tax website.
6. Look at the 700+ pieces of opposing testimony. That many people must have something to contribute.

Carol Busby
662 Pine St.
Manchester, NH 03104
603-851-4334

Owner of Napili Point Resort, B-22 since 1995

DAMON KEY LEONG KUPCHAK HASTERT
A LAW CORPORATION

February 24, 2012

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(1929-2008)

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District of Columbia



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The Honorable Rosalyn Baker
State Senate
415 South Beretania Street
Hawaii State Capital, Room 230
Honolulu, Hawaii 96813

Re: SB 2089

Dear Senator Baker:

We represent the Hawaii Vacation Rental Owners Association (“HVROA”) in opposition to Senate Bill 2089, which purports to require non-resident owners of residential units to hire licensed property managers when renting their homes.

Bill 2089 is patently unconstitutional discrimination against non-resident property owners by the State of Hawai’i, in violation of the United States Constitution. The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses. It is well-settled law that the right to own and dispose of privately-held property is a “fundamental right” for purposes of the Constitution. *Daly v. Harris*, 215 F. Supp. 2d 1098, 1101 (D. Haw. 2002) (Honolulu’s Hanauma Bay non-resident fee ordinance). Under the Equal Protection and Privileges and Immunities Clauses, discrimination on the basis of residency is reviewed under strict scrutiny. The statute is unconstitutional if it is not necessary to further a compelling state interest. *Walsh v. City and County of Honolulu*, 460 F. Supp. 2d 1207 (granting injunction against Hawai’i’s residency requirements). In fact, the Hawai’i Supreme Court has held that Hawai’i’s durational residency requirement “exists without a rational basis.” *York v. State*, 53 Haw. 557, 561 (1972).

Likewise, under the Commerce Clause, the inquiry is whether the law regulates evenhandedly with only incidental effects on interstate commerce, or whether it discriminates against interstate commerce, which means different treatment of in-state and out-of-state economic interests. “If a restriction on commerce is discriminatory, it is virtually per se invalid.” *Barber v. State of Hawai’i*, 42 F.3d 1185, 1194 (9th Cir. 1994).

DAMON KEY LEONG KUPCHAK HASTERT
The Honorable Rosalyn Baker
February 24, 2012
Page 2

Under any analysis, SB 2809 will not pass constitutional muster. Laws requiring the payment of transient accommodation tax already exist. Taxes are paid, or not paid, by residents and non-residents alike. The Bill has absolutely no purpose other than to significantly increase the cost of owning and renting property for non-residents.

In addition to these insurmountable constitutional infirmities, the Bill has many other fatal flaws. It impermissibly infringes on the four Counties' home rule powers, each of which can differently define transient accommodations for purposes of their zoning laws. In addition, property owners are statutorily exempt from using a licensed realtor when renting their own property.

For the foregoing reasons, and others, HVROA respectfully requests that SB 2809 not be passed.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT



Gregory W. Kugle

GWK:ds
cc: Ms. Angie Larson
160982

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: vadim oss
Organization: Individual
E-mail: vadimoss@yahoo.com
Submitted on: 3/11/2012

Comments:

I strongly oppose the bill SB 2089

There are plenty of reasons why this bill should be deferred, I just list a few

- 1) There is no factual evidence to support the main purpose of the bill to enforce tax compliance. The Department of Taxation testified in 2007 that there was not a substantial non-compliance problem. There has not been any hard data submitted to suggest that situation has changed
- 2) Assuming that all resident owners pay their GE/TAT and non-resident owners do not is an outrageous discrimination. As soon as you get some factual data on this topic, which is not produced yet, you might be very much surprised what the real situation is.
- 3) This bill will put an incredible financial burden on dozens of thousands of owners by taking as much as 50% of their rent from them and putting it into the pockets of the property managers who will not do anything more than the owners already are doing.
- 4) Because of the #3) the real estate market will be flooded with new wave of sales and foreclosures lowering property values which will result in lower property taxes collected. Banks affected by foreclosures will become more reluctant to issue mortgages for these properties, doing further damage to the Hawaiian economy. This will cause a chain reaction when property values will drop even further.
- 5) There is no free choice left to people who invested into Hawaiian economy and help you to bring this economy back to normal. Every time any government dictates what business to use in order to run a private business is called dictatorship.
- 6) Instead of consumer protection and quality control this bill will achieve the opposite. Thousands of people expressed their opinions that they would rather deal with an owner directly than go through a management company, all because their positive experience with individual owners.

7) This bill is blatant discrimination because it is giving economic advantage to one group over another and like many other state laws and local ordinances that have been challenged over the years will likely be overturned in federal court as they have been.

8) This appears to violate the provisions of NAFTA (North America Free Trade Act).

9) This bill adds another layer of bureaucracy to the government. The processing of thousands of tax clearance forms annually for tax-abiding non-residents will add cost to the state.

10) It transfers the duty to pay taxes from the taxpayer to a property manager but does not protect the owner if the property manager fails to pay the taxes on time or at all? In case of failure or non-compliance caused by Property Manager will result in penalties for homeowners. A good case in point is the Property Network in Kona three years ago where the manager took off with the owners' money, but the owners were still obligated to pay the taxes.

11) If the state isn't enforcing the current law, what reason is there to believe that lawbreakers will abide by this law any more than they are obeying the current law? If the state can enforce this new law, why can it not enforce the current law?

The bottom line is this bill will cause catastrophic damages to non-resident private property owners, will cause the state enormous losses in tax collection and inevitably bring a burden of legal battle, and finally negatively impact tourism industry as a whole in Hawaii.

Please oppose the bill SB2089!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Support
Testifier will be present: No
Submitted by: Ron Coronado
Organization: Individual
E-mail: maui.rbc@gmail.com
Submitted on: 3/11/2012

Comments:

Aloha,

I am an owner on Maui since 1985. I personally have watched and seen the damage that RBO has done to the Islands and the people of Hawaii by the failure to pay taxes and the lack of service private owners provide the guests. How can anyone truly love the beauty of the Islands and the people and oppose this unless motivated by personal greed? I have seen all the opposition by owners on line. On one hand RBO say that property managers are motivated by money and yet every single statement they (RBO) make is about THEIR MONEY. These are extremely hypocritical arguments by RBO.

If the state fails to get control of this then very soon every single rental will be RBO. Hawaii's own business's will go under and the state will then have no possible way to monitor or collect taxes from ten's of thousands of individual owners (many have figured out that you can not do it now). The people of Hawaii will suffer in the loss of many essential services. The consumer will also suffer because of the lack of basic service while on island. I have seen this in large numbers now. As politicians in Hawaii it is your responsibility to represent the people of Hawaii and to protect the consumer. As an investor in the great State of Hawaii it is my responsibility to abide by the laws of Hawaii.

Not one single RBO would allow this to occur in their home states or country. RBO owners would never allow the failure to collect taxes by the local government to result in loss of essential services such as schools, teacher funding, and police and fire. It is imperative that you represent the people of Hawaii (your constituents)

RE: Testimony Supporting SB 2089I am providing testimony in support of SB 2089. We are all aware of the present economic circumstances our State presently finds itself in. I wanted to highlight a very significant concern of real estate professionals throughout Hawaii, as well as a major opportunity for the State to recover major tax revenues it has clear rights to, which it is presently losing every day. The loss of these tax revenues can be avoided in a very straight forward manner as described in SB 2089. Our State's economy runs on tourism. One aspect of this from a State revenue perspective is tax, both TAT as well as the Excise, for visitors lodging. Our lodging industry is a mature and professional industry, appropriately regulated via licensees of the State, serving our State's guests well, while insuring appropriate tax monies are provided to the State on all visitor stays. With the advent of the internet, there has been an explosion of Rental By Owner (RBO) activities occurring outside the State via the internet. Owners who reside primarily on the mainland are renting their Hawaii second homes over the internet, without the appropriate on-island representation for, or management of, this rental activity, in direct violation of

HRS 521-43(f). These mainland owners may or may not charge Hawaii Tax on their reservations, and if they do, there is no way to know if some or all of these collected tax revenues are ever provided to the State of Hawaii. This transaction takes place outside of Hawaii invisible to Hawaii tax authorities. The potential loss of TAT and Excise tax revenues from this illicit activity is in the tens of millions of dollars annually, and increases daily. These tax collected monies, as well as guest rental monies, are intended by regulation to be held in FDIC insured bank Trust accounts in the State of Hawaii where they can be accounted for by state authorities, and consumer's/visitor's interests can be protected. Monies collected by mainland owners of Hawaii properties can be deposited to the property owner's mainland checking account, commingled with their personal funds, and where Hawaii has no means to monitor or protect its tax rights. Tourism being one of our State's core industries, it is in our vested interest to insure that we do everything we can to insure a positive guest experience, as well as the State capturing as much of the tax revenue that it is entitled to. We have a whole industry of lodging and real estate companies here in Hawaii that abide by State regulations, and bear the costs of following these rules. These Hawaii companies are being placed in an increasing difficult and noncompetitive position due to the magnitude of the problem. Where not long ago, this RBO activity was a nuisance, it is now approaching 40 to 50% of all condo rental units in Hawaii. Persons who don't abide by laws and regulations, don't bear the costs attributable to them, and can offer goods & services at significant discounts to Hawaii businesses following regulations, and who pay salaries and employee costs. Lastly, illegal vacation rental activity in locations where this activity should not occur due to zoning, deed restriction, or ordinance is a major issue in several of the counties. Professional property management firms are highly unlikely to involve themselves with properties where rental activity is not permitted. The bulk of the rental activities occurring in locations where short term rentals are not permitted is being conducted via owner direct bookings through the internet. Addressing illegal RBO rental activity, would not only have the beneficial impacts upon Hawaii and its tax revenue short fall as discussed previously, it would significantly reduce this very

contentious and emotional issue for Kauai, Oahu and Maui counties. I would strongly request that for all the good reasons cited above that SB 2089 be passed by this committee.

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Wayne Ginter
Organization: Individual
E-mail: slogolfer@charter.net
Submitted on: 3/11/2012

Comments:

Dear Honorable Chairman Brower and Committee Members:

Please review prior and current testimony on this bill to see the overwhelming opinion that is **opposed** to this bill, both from residents and non-residents. This bill is fiscally unsound, discriminatory in its writing, and only benefits those who are upset with the current state of the market.

Fiscally unsound

- This bill creates a new law requiring government oversight to enforce a **new** crime. This is additional bureaucratic expense.
- Requiring the use of a sales agent, taking part of the owner's profits for what they are already doing, **will force many owners to sell their rental property further pressuring down Hawaii's already depressed real estate market.**
- If properties are lost to foreclosures, many local services will lose income that comes from these rentals: caretakers, carpet cleaners, home cleaners, landscapers, maintenance and equipment service people—all money into our economy lost due to an empty property until the economy "recovers."
- This bill will further reduce Hawaii's competitiveness as a vacation destination by taking away a part of the vacation market that has become popular.
- **If a vacation rental owner is not paying their taxes now, requiring them to use a real estate broker or sales agent is not going to incent them to pay the taxes.** This will make them go underground, as the Department of Taxation will testify.

Discriminatory:

- Singling out non-residents with this bill without documentation is setting the State up for a class action lawsuit.
- Why must this industry hand control of their business to outsiders whose sole function is to collect its revenues and take 15-40% for the privilege? Are licensed tour operators required to utilize an "agent" to handle their reservations and take a "fee" for it?

Market Issues:

- The proponents of this bill are those who, unfortunately, have lost market share to owners who are managing their own rentals...**successfully**. They are the ones that benefit. The government should not interfere in normal market adjustments.

Thank you for your attention. Sincerely, Wayne Ginter

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Amy Siroky
Organization: Individual
E-mail: californiaamy@charter.net
Submitted on: 3/11/2012

Comments:

please include my attached comments as opposition Committee Chairman and Committee Members:

Please **OPPOSE SB 2089**

- **If a vacation rental owner is not paying their taxes now, requiring them to use a real estate broker or sales agent is not going to incent them to pay the taxes. Detection by authorities, enforcement and penalties is what is needed.** This bill will not increase TA and GE tax reporting. Fines, criminal prosecution, and penalties **already exist** to deal with tax fraud and we encourage the State to prosecute those who disobey the state tax law. Create methods of more policing; SB2089 will only penalize those who are already paying ta
- This bill forces owners to utilize a sales agent or broker, who charges a fee. Please listen to the testimony you will receive that this additional fee is the difference that **will force many owners to sell their rental property, further pressuring down Hawaii's already depressed real estate market.**
- Perhaps MOST important to you, as the Tourism Committee, many people **prefer to rent directly from homeowners over a property manager.** That is the reason the popularity of these rentals has grown—the owners have remained responsive to the renters and the renters enjoy the communication directly with the owners, knowing exactly what is in the unit. Hawaii already competes for vacationers' travel dollars; it has among the highest combined excise and lodging tax rates (13.42%) in the United States and the cost of travel create significant competitive disadvantages. **IF YOU ELIMINATE** this popular part of the market, you add yet another disadvantage for reasons to keep people away from Hawaii. We need to find ways to attract people to Hawaii, not turn them away.
- This bill is discriminatory to non-resident owners and will not pass constitutional muster.

Please consider the long term repercussions of this bill by thinking **"Who benefits?"** This bill does not provide the State a method to improve the receipt of their TA and GE tax reporting; it will only drive those who are not reporting underground.

Require rental by owners to include their tax id number in advertisements if that provides an easy way for identifying tax payers.

Thank you.

Amy Siroky

I strongly oppose this bill and strongly urge it be reconsidered before being passed by the legislature.

I have always paid the required taxes and support these taxes for the Hawaii economy, but am vehemently opposed to inserting property managers or realtors into the equation. After using a manager for 6 months , the abuse and degradation to our property was stunning. We were given only 2 choices: sell our property or operate guest rentals ourselves. We have successfully rented our place ourselves and generated significant monies for the state through our rental.

Law is unconstitutional as it targets non-residents instead of residents. I would be interested to see how this would hold up under the equal protection clause of the constitution. I don't think it would fair very well.

Exemption needs to be spelled out and explained fully in any proposed legislation. Am interested why the Exemption isn't explicitly stated.

Tourism is coming back, this could have devastating effect on it. This is serious. There is NO WAY that this law will bring in more tourists by bringing the cost of travel to the islands down. The costs will only go up!

Real estate is coming back, this will make it so many owners cannot afford to keep their properties and would have to sell – adding to an already bloated market.

Property managers are the only ones to benefit from this law. This disturbs me greatly. I am wondering how the property managers have been ably to arm-twist legislator into even considering this. This is a very short-sighted attempt in the name of "revenue-enhancement" that will benefit very few and not bring about the intended results of this bill. Let's actively work on educating owners and enforcing the current laws!

Mahalo,

Jeff Likes

Ingrid Bossen
125 Fairmead Lane
Los Gatos, CA 95032

March 11th 2012

To Whom It May Concern

With this letter I am voicing my opposition to SB2089.

All testimonials presented in favor of Bill 2089 lack evidence that a larger problem with non compliance of out of state owners regarding GE/TA tax really exists. Instead of anecdotal references, facts based on arrival, property tax and business tax records need to be obtained. Several other measures – different from the ones listed in the bill - have been brought up in the meantime which would allow individual owners to continue acting as individuals (Disclosure of rental activity from HOAs, RBO web sites, etc).

My main concerns are:

- There is no evidence that a property management company will do a better job in collecting taxes than individual owners
- State of Hawaii Bill 2089 proposes to re-distribute 20..40% of owner's rental income to "local property management companies
- State of Hawaii should consider to allow at least those property owners who have been duly paying all required taxes to continue to do so in the future
- The bill contains confusing, ambiguous language which needs to be clarified further such as references to "condominium hotel operators" and "*annual tax clearance* "

GE/TAT taxes:

We owns a condo since 2010 and have been paying all GE/TAT/property taxes due on rental income. Like most owners we have spent significant funds with local businesses and individuals to renovate and keep properties in good shape and compliant with all local tax and other laws while under self management.

- We do not need a management company mandate to collect and submit taxes on our behalf. We highly doubt that property management companies have sufficient qualified personnel to perform tax collection and property management tasks satisfactory.
- As stated by other owners losing a significant portion of rental income for management company fees will cause many owners to sell their property, lead to increased property rents deterring tourists from visiting Maui.

Agent on file:

- Most HOAs already require an on-island agent on file for emergencies. Should there be a lack of compliance, following up with HOAs and individual owners should be the first step before introducing a bill.

Please postpone a decision on this bill until solid evidence has been presented.

With sincere hope that this committee will make decisions based on facts rather than following lobbying of property management companies.

Best Regards Ingrid Bossen

Dear Honorable Members of the Hawaii Legislature,

I am submitting this testimony to voice my concern and opposition to Senate Bill 2089. As a non-resident owner of a single property on the island of Hawai'i, I fear that passage of this bill in its current form will be devastating to I and my wife's endeavor to start up our first small business, and it will be detrimental to the economy of this island, if not the State as a whole. Our dream of purchasing property became reality in 2011, and ultimately we hoped to rent it out ourselves as a small business. After finalizing repairs last month, utilizing mostly local small businesses and contractors, we began the process of researching how to register our business and setup our taxes to be in compliance with the law. During this search we discovered this bill. As the bill currently stands, it appears that our upcoming small business will in effect be eliminated, as we will be subject to rent our property through a management company or licensed representative. This will be cost prohibitive, and will ultimately reduce our chances of being successful (i.e. making a profit), let alone breaking even. The only option for maintaining a viable business would be to increase rental rates to absorb the representative costs. However, this scenario would create an unfair advantage to resident owners who could advertise much lower rates than those of non-residents. Beyond the loss of income would be the loss of pride and life experience gained in the operation of one's own business because it will be the management or representative that ultimately controls the day-to-day nature of the business. At the local level there will be impacts resulting from this law as well. Currently, we provide work opportunities for three locally licensed individuals for maintenance and cleaning of the property. There is a strong likelihood that a management company would utilize their own contractors, eliminating income from those three individuals. There appears to be an exemption in the bill to permit owners from having to go through a company or representative; however, it is completely unclear who is eligible or how such an exemption will be acquired by non-residents?

We encourage you to please oppose this bill in its current form, and push for stronger enforcement of the existing laws to bring those outside of compliance back in. Punishing responsible small business owners who truly care about the communities they own properties in, is not the appropriate path forward. Elimination of revenue from local hardworking contractors should never be a side-effect of decent legislation. I do hope you agree, and I thank you for your consideration of my opinions.

Sincerely,

Matt Hubner

<http://www.halehubner.com>

<http://www.vrbo.com/403855>

Stephan Vossen
125 Fairmead Lane
Los Gatos, CA 95032
408 472 7454

March 11 2012

To Whom It May Concern

With this letter I am voicing my opposition to SB2089.

All the testimonials presented for Bill 2089 lack evidence that a larger problem with non compliance of out of state owners regarding GE/TA tax really exists. Instead of anecdotal references, facts based on arrival, property tax and business tax records need to be obtained. Several other measures – different from the ones listed in the bill - have been brought up in the meantime which would allow individual owners to continue acting as individuals (Disclosure of rental activity from HOAs, RBO web sites, etc).

My main concerns are:

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- State of Hawaii should consider to allow at least those property owners who have been duly paying all required taxes to continue to do so in the future
- The bill contains confusing, ambiguous language which needs to be clarified further such as references to "condominium hotel operators" and "*annual tax clearance*"

GE/TAT taxes:

My family owns a condo since 2010 and has been paying all GE/TAT/property taxes due on rental income. Like most owners we have spent significant funds with local businesses and individuals to renovate and keep properties in good shape and compliant with all local tax and other laws while under self management.

- We do not need a management company mandate to collect and submit taxes on our behalf. We highly doubt that property management companies have sufficient qualified personnel to perform tax collection and property management tasks satisfactory.
- As stated by other owners losing a significant portion of rental income for management company fees will cause many owners to sell their property, lead to increased property rents deterring tourists from visiting Maui.

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Please postpone a decision on this bill until solid evidence has been presented.

With sincere hope that this committee will make decisions based on facts rather than following lobbying of property management companies.

Mahalo
Stephan Vossen

Opposing SB2089 SD1 Amended

My wife and I purchased a condominium on Maui four years ago in hopes that we would someday retire there and live out our golden years in paradise. We rented the condo out to help pay the mortgage and HOA dues as well as general upkeep. Since then the economic downturn, rising cost of vacation travel has made it difficult to stay on track. But we are managing and still believe we'll one day achieve our dream.

We always pay our property and tourism taxes because we understand the role tourism plays in Hawaii and want to make sure public works projects are fully funded as well as programs for the local residents and schools.

SB2089 SD1 as amended only makes our lives harder and seems to unconstitutionally treat non-resident property owners like us differently than residents. We rent the property ourselves and partner with a local firm to help keep the property clean and well maintained. We do this because we found that using local management companies and real estate firms to fully book and manage the property were too expensive and were not as efficient as doing it ourselves. Those firms did not screen guests as thoroughly as we did and did not manage the tax payments as well as we did.

As in all taxes, I'm sure this issue has been raised because some property owners have been delinquent in paying their taxes. But why not enforce the existing laws and punish those individuals instead of placing an undue burden (and additional cost) to the rest of us who are paying our obligations on time.

It almost feels that this is a bill sponsored by special interest under the guise of increasing the Hawaiian public good. But it can only hurt individuals like me and my wife who are just trying to find a way to spend our later years in this beautiful land and contribute to the local economy.

Property values are coming back, things are improving nationwide and in Hawaii. Please avoid legislation that could drive investment away and make life harder on some of us who are doing all we can to keep the great state of Hawaii strong and prosperous.

Please do not pass SB2089 SD1 as amended.

Thank you for your consideration and service to the state of Hawaii

Felix & Joanne Posos
Homeowner,
3445 Lower Honoapiilani Road,
Unit 815
Lahaina, Maui, HI 96761

Dear Senator:

**Subject: Senate Bill 2089
Oppose**

To increase owner compliance and simplify the collection process, why not just request a copy of "Schedule E" Form 1040 of the owner's Federal tax return be submitted for each rental property as part of the TAT "Annual Return and Reconciliation" (Form TA-2) which is due April 20 each year? The total "Rents received" on the "Schedule E"(s) should equal the "Gross Rental Proceeds" reported for TAT purposes. This would avoid the exorbitant administrative expenses of requiring all rental owners on Maui to hire licensed property managers to process all rental monies, render full accounting services and pay all TAT taxes for owners of rental properties, whether a resident or non-resident.

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 SB2089 SD1 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 that provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill 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 compliant."**

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. Will the local contact also pay for advertising costs, i.e. websites advertising, cost of website hosting and all other associated advertising fees currently paid for by owner?

When I first started renting out my condo, I considered using MBR as a rental agent. Their cost at that time was 28% plus \$400.00 misc replacement fee of small items. My profit before using them was -10%. I could not afford to use them. I cannot afford to use them now either.

It is inconceivable to me that I should be forced to provide in excess of 25% of my rental income to a rental agent. Why should I be enhancing the income of real estate professionals when I have been following the legal guidelines of the tax code? I have always paid my GET and TAT fees since I began renting my condo.

I have also been paying the very high property tax rate associated with transient rental accommodations. I will not be able to afford my mortgage payments, HOA fees, property taxes if I am obligated to give away a big chunk of my rental income.

My options are as follows:

Increase my condo rental rates, which will drive potential guests to other condos or hotels, thus decreasing my rental income, and therefore my GET and TAT that I pay to the state. I believe that this is what this bill is all about. Once my rates are increased, rental agents on Island will be able to undercut my rates, and therefore take advantage of the opportunity to steal my guests. Either way, the rental agents benefit and the owners lose.

Sell my condo at the decreased real estate prices, thus contributing to the current housing crisis affecting the economy.

I can only hope that law abiding owners who have always paid their GET and TAT taxes will be exempt from having to give money away to real estate agents.

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 SB2089 SD1. 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.

Mahalo, Wendall & Sally

Comments Opposing Bill SB2089 SD1 amended

There are many downsides to this bill not the least of which will be the unintended consequences of loss of livelihood to people presently managing properties and the loss of taxes to the state from properties removed from the market. This bill may serve to benefit a few realtors and salespeople that are presently proposing and supporting the bill. But what will be the eventual cost and negative impact to the present property managers who are hired by the non-resident property owners to oversee their properties?

The intent of this bill is to catch a small percentage of errant property owners who are not paying the appropriate taxes. Why are the non-resident owners being discriminated against? I speculate that there are resident owners that are working under the radar. If this bill is passed, the resident owners will have a distinct advantage over the non-resident owner since the cost of doing business is much less for them. We will not be able to be competitive since we will need to raise our rates to help offset realtor/property manager's fees.

In the time we have been renting our property to vacationing visitors to Hawaii, we have collected and paid over \$17,000 in general and transient taxes to the State of Hawaii. We feel personally insulted that we as a non-resident owner will be forced to hire a middleman over whom we will have little or no control. Our resort had a management company that private owners could **choose** to use if they did not want to handle their own rental unit. This company went bankrupt and did not pay the owners or the taxes that had been collected. The owners had to pay the taxes.

We handle all our own bookings thru VRBO and Homeaway and by word of mouth from people who have stayed at our condo. We send our guests a reservation contract stating the rates, taxes, cleaning fee and cancellation policy. We also send them an information letter which contains information on the condo and resort. Our on-island housekeeper makes sure that the condo is ready for their stay and is readily available if the guest has a question or if something needs to be repaired.

We contact our guests during their stay to make sure if everything is all right. We have many guests that return because their past experience was wonderful. If our guests are celebrating a special occasion such as an anniversary we have a bouquet of tropical flowers along with a personal note from us. We do care and pride ourselves in giving that bit of special attention to our guests.

If this bill is passed, we will have no other recourse than to withdraw our unit from the rental market. The cost to the state from us alone will be the loss of approximately \$4000 per year in tax revenue and one housekeeper with one less client. This bill is blatantly unfair. There are enforcement provisions and fines on the property owner yet there are no limitations or consequences on errant realtors or salespeople. They are free to charge what they please and there are no consequential damages for their non performance of the implied fiduciary duties if they fail to perform.

Please vote no on Bill SB2089 SD1 amended

Kauai condo Owner, Pono Kai F204.
1250 Kuhio Hwy.,
Kapaa, HI. 96746

Anthony Cooney
Cooney Construction Consulting
50 Rancho Drive

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Norma Ribich
Organization: Individual
E-mail: nrribich@aol.com
Submitted on: 3/10/2012

Comments:

I adamantly oppose SB2089. I have rented vacation/business properties all over the world and the rental that is transacted directly with the owner is by far the best. Property managers/realtors do not have a sense of what the client needs. The property owner attends to the details which are so important to those renting. The client does not want the "hotel" atmosphere. They want a place that feels like home that only the owner can give them. I write this from a rental I rented directly from the owner. I would never get the level of service from a property manager that I do from the owner direct. I would not rent a place where I had to go through a property manager or realtor. I would plan my vacation some place else. Please do not pass SB2089.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Thomas Drewry

Organization: Individual

E-mail: tldrewry@shaw.ca

Submitted on: 3/10/2012

Comments:

As a frequent visitor to your amazing islands, my family and I are disappointed to hear of this proposed legislation. We have visited your islands at least once per year over the last 15 years, contributing hundreds of thousands of dollars to the local economies. We have enjoyed various accommodations over these years, but have especially enjoyed the direct rentals from owners that we made. The experience has always been handled very professionally and the accommodations have always been exactly as advertised.

The legislation appears driven by realtors and property management firms with obvious business development motives. If there are some owners who are breaking the rules, then deal with them. It is not right to punish all the owners who abide by the rules and help bring business into your economies.

In closing, I strongly oppose this legislation.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Yvonne Gilbert

Organization: Individual

E-mail: yvonnegilbert744@gmail.com

Submitted on: 3/10/2012

Comments:

Please vote NO on bill SB 2089, it will completely depress the real estate market. Who would want to buy property that they cannot manage by themselves. This is punishing people that do not live in Hawaii, but are helping the economy by bringing in tourists. We pay our TAT and GE tax, along with property tax. This bill is going to hurt the tourist business. People will have to pay higher amounts to come to Hawaii. There is nothing to be gained. Maybe brokers will get more money, but soon this will hurt the Islands income. This bill is not going to protect the Hawaii islands against people that do not pay their rental taxes. I am sure there are many residents of Hawaii that do not comply with the laws about paying these taxes. You are separating out those of us that are trying to help. We feel this is very unconstitutional.

Sincerely, Yvonne and Michael Gilbert

Property owners at Waipouli Beach Resort on Kapaa, Kauai

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ivar Pedersen

Organization: Individual

E-mail: ivar@ivarp.com

Submitted on: 3/10/2012

Comments:

I am a nonresident owner of a condo at Napili Shores, Maui, properly licensed and pay the GET and TAX taxes as required. My individual rights as a property owner should not be usurped by passing a law that will require me to hire a condominium hotel operator to control my unit.

Respectfully submitted.

Ivar Pedersen

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mr/Mrs William Harvey

Organization: Individual

E-mail: Hailtec@aol.com

Submitted on: 3/10/2012

Comments:

This bill will increase cost to travelers, reduce income to owners and take away the choice of dealing direct with each other by legislating we all use a middleman. This is counter productive and would impact adversely the Hawaiian economy. Please vote no.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marsh Campbell
Organization: Individual
E-mail: ccc105@yahoo.com
Submitted on: 3/10/2012

Comments:

Pleae vote no on SB-2089. As frequent visitors to you beautiful islands, we should have the right to deal directly with owners of rental property. They as owners have a vested interest in fair and honest dealings regarding their specific property. Rental agencies have no such loyalty to an individual property, its owners, or renters. Again, please vote no on this unreasonable and bad legislation. Sincerely, Marsh Campbell

From: wscasale@earthlink.net [wscasale@earthlink.net]
Sent: Saturday, March 10, 2012 9:51 AM
To: TOUtestimony
Subject: Please OPPOSE SB2089

Dear Members of the House Committee on Tourism:

We strongly urge you oppose this overreaching - and likely unconstitutional - measure for all of the following reasons:

- > It is an abusive governmental intrusion on the private property rights of the vast majority of condominium unit owners who already comply with Hawaii's tax laws
- > It is yet another "mandate" of dubious constitutionality that requires already-tax-compliant citizens to purchase a product from a third party AT SIGNIFICANT COST in order to remedy the failure of a few others to comply with existing law and is certain to result in legal challenges costing Hawaii taxpayers hundreds of thousands (millions??) of dollars in legal fees
- > The economic costs to the State could be immeasurable in terms of LOST TOURISM and FALLING PROPERTY VALUES from thousands of forced sales and foreclosures because most owners (like us) cannot afford an increase of 20%-30% in overhead and cannot pass that cost along to our guests without SIGNIFICANT LOSS IN RENTALS in these difficult economic times
- > This measure would result in a major loss of control over our own rentals, our own MONEY, and our own PROPERTY to a third party who clearly has less time, interest and motivation to rent and properly manage our unit than we do
- > There are certainly less onerous and more effective ways to enforce existing tax obligations than this "sledge-hammer" approach. PLEASE!! BE CREATIVE in finding ways to identify scofflaws without destroying BILLIONS of DOLLARS in private wealth and income to local tradespeople, retailers and service providers

In our particular case, we have barely been able to break even on our little unit over the past three or four years despite dedicating an average of twenty hours a week to our rental and management efforts. (Which, by the way, NO real estate agent is going to do!!) We have ON-ISLAND representation available within minutes of our unit "24/7/365". We try to do everything right!!! If this legislation passes without certain exemptions, we are likely to have to walk away from our equity, our mortgage and a large chunk of our retirement nest egg. Things like this don't happen in the United States of America. Or DO THEY????

We ask you to ask yourselves one question: If the State is unable to enforce full compliance with its tax laws now, WHY WOULD THE SAME PEOPLE WHO ARE NOT OBEYING EXISTING TAX LAWS SUDDENLY RUSH OUT TO COMPLY WITH THIS LAW?? It is already against the law to avoid paying lawfully-imposed taxes. Please don't further punish the vast majority of us who try to be good citizens in order to go after the few who will probably avoid complying with the new law as well.

The Senate Commerce and Consumer Protection Committee has at least attempted to carve out an exception from this obnoxious Bill's requirements for those of us who already pay our GET and TAT. AT THE VERY LEAST, we implore you - even if you vote for this monstrosity - to make certain that a clear-cut and easily-complied-with exemption (such as the annual certification from the Department of Taxation) is retained in the final legislation.

Mahalo for taking your time to read this and for your serious consideration of the DEFECTS in this proposed measure.

Aloha!
Bill and Patty Casale
Napili Point C-37
Lahaina, Maui HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kristen Souvorin

Organization: Individual

E-mail: ksouvorin@me.com

Submitted on: 3/10/2012

Comments:

I have loved renting vacation properties directly from their owners over the years and have NEVER had a single negative experience in doing so. Each rental has been clean and ready for my family's arrival AND there has been a contact for assistance if/when needed with the property itself as well as with concierge services such as dining and activity recommendations. The ability to rent a property directly from it's owner is what makes it financially feasible for my family to have trips together to places such as Hawaii. We would not be able to come if rental rates were to increase for any reason; but for the greed of realtors? Come ON!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: eugene hinson

Organization: Individual

E-mail: iceforyou@juno.com

Submitted on: 3/10/2012

Comments:

i am not in favoras you are going to add cost to every one and make it to where some of us may not be able to aford to come to your island. as most of your revenue comes from visitors you and more fees then the less we will spend on out trips,as we allshould pay our fair amount of,room taxes.i try to vacation in the u.s. as a u.s.citison i would like to aford to visit the us and keep my money in the u.s.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Stephen & Corinna Moser

Organization: Individual

E-mail: mosersc@telus.net

Submitted on: 3/10/2012

Comments:

We are non-resident property owners and we do our own rentals. It is unethical and unfair to be forced into who manages our rental property just because we do not live in Hawaii. We file and pay GE and TA taxes as per the current laws. Implementing this new law may force us to sell, as it would become uneconomical for us to use an agent. If many people are forced to sell, it will flood the real estate market and I am sure this is not the intent of the new law. We realize that collecting the correct taxes is very important, but this is not the way to do it. Educate the people and enforce the current laws as they are. Adding more laws will not force anybody who is currently breaking them to follow new ones.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose
Testifier will be present: No
Submitted by: S. L. Kumar
Organization: Individual
E-mail: kumars19@comcast.net

Comments:

Thank you for this opportunity to voice my opinion/concerns about measure SB 2089. It's going to sound like a rich person's rant but it's really a plea by an honest, law abiding citizen to do what's right. Please do not punish the honest citizens that have worked and sacrificed most of their lives to enjoy and directly manage what they've paid for.

I have been blessed to own 2 vacation homes and part-time rentals in Hawaii. In adherence with Hawaii laws I collect and submit GE and TAT taxes whenever I rent my units. My primary residence is on the mainland but have numerous local contacts and a property manager to oversee my properties when I'm off-island. My vacation homes are my pride and joy as are my relationships with my guests; every guest, regardless of whether they only come once or become repeat guests. Each guest will happily attest to this pride of ownership and direct management. They know each rental is very personal. It's simply not possible to replace me; nor is it fair to suggest that I be forced to incur additional expense to my NON-PROFIT rentals to have someone do a very poor imitation of what I do.

How is it possible to take away my right to manage my rentals directly with my own local support systems? I've paid upward of 1/2 million for each of my properties, pay my annual taxes, pay my GE & TAT taxes for rentals yet the State of Hawaii is going to take away my rights and force me to PAY someone else to do my job with my rentals. This bill is NOT going to fix law breakers; it's going to punish and fix what's not broken; the honorable citizens. Please, PLEASE put together a team (and include OWNERS) to identify extent of problem AND propose real and fair solutions. I've heard suggestions of tax IDS on listings; we need to be cautious of anything that would give criminals opportunity to indulge in identity theft. Also, online vacation rentals calendars do not indicate when guests are in the unit...the units may be blocked for owners or for work on the unit. If there's any chance this law IS passed there MUST be a system put in place to honor the honest owner; ie...maybe putting a 'certificate' in place for owners that have proof of tax collection and payment. Rather than get more into solution mode at this time, please, again, reconsider and oppose this measure/law and let's regroup to address the problem. Do NOT allow a special interest group to suggest a problem and solution for everyone when it's neither a problem nor solution for majority. Especially, when this special interest group is going to profit, PROFIT, pRoFiT by rental management or subsequent sales of those that are forced to either comply and hire them to manage or SELL their vacation homes.

The state should realize that I would NOT have purchased either of my units to sit empty or to throw away money on something I can easily do myself. If the state is going to change the laws to negatively impact me (and my investment/s) and leave me 'holding the bag' against my will; the state should be prepared to reimburse me for all of my expenses...AND for the additional losses I will incur for the less diligent, personal and direct attention I give each and every rental before, during and after it is occupied by anyone! Better yet, will the legislators please reimburse me for the cost of my properties and improvements so I might invest in another state that doesn't allow this type of injustice?

I want the state of Hawaii to be given the respect (and taxes) it is due by EVERYONE; please show the leadership and respect I've earned, to me and other law abiding owners.

Respectfully,
S. Kumar

From: Carol and Ed Brown <ebcb711@att.net>

Date: March 9, 2012 8:02:00 PM PS

>

Subject: SB2089 SD1-- My letter to committee see next e-mail

REPRESENTATIVES: Please consider the ramifications of this disastrous bill for the tourist industry in Hawaii, and now that tourism is finally rebounding. Those of us who love Hawaii. have visited for decades and finally bought property are being discriminated against in the most outrageous way. We will no longer be able to offer our guests the personal rental service we prefer, and indeed many of us may have to sell our property because we will be unable to afford maintenance fees, etc, A high percentage of our already meager rental income will go to line the pockets of the realty professionals. Not to be disrespectful, but this bill is a shameless pandering to one business group and discrimination against non residents of Hawaii.

Mr. and Mrs. Edward F. Brown
4519 Lawrence Dr.
Castro Valley, CA
Owners, Unit 2-304, Keauhou Surf & Racquet Club
78-6800 ALII DRIVE, KAILUA-KONA, 96740

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Elizabeth Pierson

Organization: Individual

E-mail: bpierson@maui.net

Submitted on: 3/10/2012

Comments:

On behalf of my guests and myself, I vehemently oppose SB2089. A large number of visitors to Maui County choose to seek vacation rental accommodations space at condominiums because they are more comfortable dealing directly with owners. They know that only an owner can address their expectations and needs at a personal level. But increasingly, because the GET and TAT are visibly passed on them and are so high, they are close to reaching a tipping point at what they're willing and able to spend for a Hawaiian vacation. Please, vote against SB2089 and any future legislation like it. Mahalo nui loa, Elizabeth Pierson.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sharon DeRosa

Organization: Individual

E-mail: s.derosa@comcast.net

Submitted on: 3/10/2012

Comments:

My husband and I visit Hawaii twice annually, generally staying a total of 6 to 8 weeks a year. We currently maintain an account at the Bank of Hawaii, a storage locker and spend several thousand dollars on entertainment and miscellaneous purchases. If SB 2089 is passed, rental costs will increase to a level that will preclude our ability to visit as frequently or stay for prolonged periods. The projected increase in rental costs (40-50%) will be prohibitive and I believe have a serious and negative impact on tourism. It will certainly be difficult for us to continue to visit. Thank you.

Sharon DeRosa

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Gayle Melling
Organization: Individual
E-mail: gmelling@telus.net
Submitted on: 3/10/2012

Comments:

As an individual whose has used VRBO in Hawaii for the past 2 years and am doing so again in 2013, I oppose this Bill. People save for years to go to the beautiful State of Hawaii and if the rights are taken away from owners renting under VRBO I am sure that millions of dollars in revenue will be lost. The average person can not afford to stay in hotels for extended periods of time, but can amange to afford an condo, etc offered under VRBO. We stayed in Kons in 2011 for 3 1/2 weeks, in 2012 for 5 weeks and will be staying in Kona again in 2013 for 2 months. I could not afford accommodations in a hotel for that period of time. The owners I have dealt with have be courteous and helpful. DO NOT PASS THIS BILL.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: John Newsom

Organization: Individual

E-mail: ldance4two@aol.com

Submitted on: 3/10/2012

Comments:

Owners should not be required to use a real estate broker or condo. property manager. What has happened to our system of free enterprise? I have rented from VRBO all over the world and never had a problem. GOVERNMENT NEEDS TO STAY OUT OF OUR RIGHT TO DO OUR OWN BUSINESS.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Steven Feitelberg

Organization: Individual

E-mail: sfeitelberg@gmail.com

Submitted on: 3/10/2012

Comments:

We need to have safe affordable travel options and this bill
will increase the costs to us Pelase vote no

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Steven Feitelberg

Organization: Individual

E-mail: sfeitelberg@gmail.com

Submitted on: 3/10/2012

Comments:

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will increase the costs to us Pelase vote no

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gayle Melling

Organization: Individual

E-mail: gmelling@telus.net

Submitted on: 3/10/2012

Comments:

As an individual whose has used VRBO in Hawaii for the past 2 years and am doing so again in 2013, I oppose this Bill. People save for years to go to the beautiful State of Hawaii and if the rights are taken away from owners renting under VRBO I am sure that millions of dollars in revenue will be lost. The average person can not afford to stay in hotels for extended periods of time, but can amange to afford an condo, etc offered under VRBO. We stayed in Kons in 2011 for 3 1/2 weeks, in 2012 for 5 weeks and will be staying in Kona again in 2013 for 2 months. I could not afford accommodations in a hotel for that period of time. The owners I have dealt with have be courteous and helpful. DO NOT PASS THIS BILL.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kimberly Woodcock

Organization: Individual

E-mail: Krvidal21@comcast.net

Submitted on: 3/10/2012

Comments:

This is a horrible idea . This will just make.visiting hawaii
even.more.expensive. I will just go to mexico instead.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Richard Garretson
Organization: Individual
E-mail: rkgarretson@msn.com
Submitted on: 3/10/2012

Comments:

I oppose SB2089 as it limits my control of my property, increases costs up to 50% and not cost effective to continue to rent my property and pay the higher property tax, transit and general excise tax that I now pay. We had a property management firm renting our property and had overcrowding, more damage 45% fee and no control over who rents. Now we talk to every guest ourself and have no damage, overcrowding and have regular returning guest. So I OPPOSE SB2089.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carol Hunt

Organization: Individual

E-mail: carolhunt27@cox.net

Comments:

I will keep these comments to SB2089's effect on tourism. There are many other reasons for not enacting SB2089.

VRBO and similar websites are here to stay. No wishful thinking on the part of realtors or hotels will return us to past influences on tourism. Tourists routinely now stay in private homes and condos instead of hotels. Even in world travel this is common practice. My daughter is now planning on joining her husband on a business trip to Paris and London and is finding apartments on VRBO because they have two children. The business her husband works for will be paying for their lodging. If Hawaii cuts off this type of rental, it will be surprised at the backlash. People who exclusively use these sights for travel, and there are many, will be angry and will not like their Hawaii alternatives. They will go other places.

Secondly, when the owner rents their own place they build a relationship with the renter. I am constantly getting thank you's from renters because they are so happy with our condo. We also have many repeats and referrals. There is no such relationship with property managers. In fact, our onsite condo manager will not guaranty people a certain unit. This definitely defeats the goal of visitors returning to the islands. I would go so far as to say one of the reasons Hawaii has maintained its tourism level through the recession is because of VRBO rentals.

Finally, the real estate market is already terrible in Hawaii. The difficulty in getting loans for vacation homes has impacted Hawaii greatly. It has always depended on second home sales for a significant portion of sales. This bill will complete the decimation of that market.

Please consider Hawaii's economic future and defeat this bill.

Thank you.

From: Tjf702@aol.com [Tjf702@aol.com]
Subject: 2089 SD1, Tourism Committee March 12th 9:30 am

OPPOSE SB 2089 CREATES A MONOPOLY!!!

I cannot believe that in these poor economic times anyone would even consider a bill that would have such an adverse impact on the economy and realestate market in Hawaii. Whoever is pushing this obviously has a hidden agenda. Passing this would casue property values to drop, a decrease in visitation due to the need to raise costs. Small businesses that support the rental business would suffer. Even the realators that might be supporting this would suffer as investors would no longer look at or purchase vacation rentals.

I can tell you that I was currently looking at purchasing another property in Hawaii and I have now discontinued my search and I am sure that many other have as well. This type of bill will really hurt the market.

SB-2089 is illegal per Hawaii State laws. A realtor will be in violation for representing illegal rentals. This bill conflicts with a current law.

Per testimony by Rico.

It is unconstitutional . The tax board can follow the process used in 2007 by the past tax board which did an audit. They can hire consultants and research through ads. Do not take it out on the majority that pay their taxes. The State will lose more than they gain.

Agents charge 40-50% commission. We cannot afford to pay our mortgages if we sign up with agents. We have local managers to take care of all maintenance problems, we pay our taxes, we generate revenue in the communities, the condos we own have 24/7 managers and security.

This bill is being requested by a small group of realtors/booking agents who have a vested interest! If this bill passes the state has been used as a tool to create a monopoly. There will be price control and it cuts off free enterprise. Many owners will close, sell or even go into foreclosure
The agents who will financially gain from this bill have said the State is losing millions. They do not have the qualifications to discuss numbers as serious as tax money.

I hope that this is all considered before passing something that will have such a negative impact in such an unstable economy.

Thank you for taking the time to hear my concerns.

Tom Flynn
8536 Grand Palms Circle
Las Vegas NV.89131 Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ronald D. Benjamin
Organization: Individual
E-mail: colonel@ronbenjamin.net
Submitted on: 3/10/2012

Comments:

SB 2809 will not pass constitutional muster. Laws requiring the payment of transient accommodations tax already exist & apply equally to residents & non-residents alike. The bill serves no purpose & will just increase costs of owning & renting property. Rents would increase & bookings drop.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: John de Bruyn
Organization: Individual
E-mail: johndebruyn@shaw.ca
Submitted on: 3/10/2012

Comments:
Dear Sir/Madam:

I am a condo owner in Maui and have dutifully collected and paid the Hawaii excise and transient tax every year. I am a CPA and certainly support the taxation. It is the State of Hawaii's right to impose and collect tax. However, I believe it is totally unconstitutional to force a citizen to use a service that they don't need, that would cost us nearly \$8,000 per year, for the State to collect the tax. The proposed law is further unconstitutional as it penalizes non-residents versus Hawaii residents. I have no doubt this law will be overturned on appeal, with potentially the State of Hawaii having to reimburse condo owners for their unnecessary expense. Real estate agents and property management companies benefit from this proposed law and everyone else loses, especially condo owners. In addition, I have had bad experiences with property management companies and prefer to use a local person in Maui to look after and clean our property.

I should also note that Maui stand to lose far more revenue than it might gain. With the passage of this legislation, I will probably stop renting out our condo. This means that my property taxes will decrease about \$3,000 and that the excise and transient tax that I collected and paid last year of \$2,920 will also become zero. So Maui will lose nearly \$6,000 of tax revenue. Clearly this legislation is very ill conceived and I suspect it is totally sponsored by property management companies and realtors, who totally lack independence. I urge you to do what is right and fair for individuals and condo owners and give citizens the right to choose how we manage our condos and assets.

As a further comment, the State of Hawaii tax department can very easily cross reference all condos that are being rented out through websites such as VRBO (for rent by owners) against the State's tax records and assess and penalize anyone who is not collecting and or paying the taxes. I would be happy to consult on a contingency basis and find unpaid taxes for the State of Hawaii.

I respectfully ask that you reconsider and vote down this legislation. Thank you.

Yours truly

John John de Bruyn

Owner of Ekolu Village unit 1511
10 Wailea Ekolu Place
Wailea, HI, 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sharon Geraghty

Organization: Individual

E-mail: maritime@alaska.net

Submitted on: 3/10/2012

Comments:

I oppose this bill. We have rented from VRBO several times and if it costs 25-40% more we would rethink our choice of going to Hawaii for vacation. We do pay the same taxes through a private rental as we would in a hotel. We have had great experiences everytime we've used VRBO. Sharon Geraghty

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Richard Hein

Organization: Individual

E-mail: richeyrich94596@yahoo.com

Submitted on: 3/10/2012

Comments:

Owners have every right to rent their OWN property, that's why they are called owners! I am a renter and have rented directly from owners with more success then through agencies. The cost is less and the treatment is better.

Thank you.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mary Gross

Organization: Individual

E-mail: mgross@miracosta.edu

Submitted on: 3/10/2012

Comments:

I am writing to express my strong opposition to Bill 2089. I am very concerned that passage of this bill would result in my inability to retain my property that my husband and I worked years to acquire.

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

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

If this proposed law had been in effect, we would never have purchased a property on Maui. I do not want a property management company who manages numerous rentals to manage my property. I want to know (and decide) to whom I rent my unit and be in regular contact with my guests. I have an excellent on island manager who is on call for my guests 24/7. I also 1099 this individual.

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

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

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

You were wise to defer the similar House bill when it was debated. It is time to stop this bill that is poised to result in numerous lawsuits, lost revenues, and declining home values.

I thank you for your careful consideration. With aloha,

Mary Gross

From: Arleen Cox [acox7@cox.net]

Sent: Saturday, March 10, 2012 7:53 AM

To: TOUTestimony

Subject: HB1707

We have been property owners of a rental property in Maui for 17 years and have paid our General Excise and Transient Accommodation Tax faithfully. Additional laws are not necessary. What needs to be done is better enforcement of existing laws. People are always going to try to outsmart the laws and this has been an irritant to us as we pay our taxes in a timely manner. We definitely oppose new regulations. Hawaii has enough of them.

Arleen and LeRoy Cox

San Clemente, CA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Leland
Organization: Individual
E-mail: kazoom@gci.net
Submitted on: 3/10/2012

Comments:

I am writing to oppose passage of SB2089. I own a condo in Maalaea, Maui that I use for personal visits and rent through vrbo.com for vacation rentals. I have a license to operate a vacation rental and I pay all GET and TAT on time and in full. I contract with a licensed on-island agent, a housekeeper and utilize local contractors for maintenance. My monthly expenses include association dues, leasehold payments, utilities, insurance, on-island agent and housekeeper. Although I have a very good occupancy rate, the rentals are basically allowing the condo to pay for itself. If I am required to hire a property manager, it will become a losing proposition and I will likely be forced to sell. I expect many other owners would be in a similar situation and I fear what that will do to the value of my property.

I am very sympathetic to Hawaii's need to be certain that all vacation rental owners are paying appropriate taxes and that vacationers visiting the beautiful state of Hawaii have the best experience possible, but I do not believe that this bill will do anything to further that goal.

Before passing SB2089 or any other similar bill, I believe the Department of Taxation needs to fully research the matter to determine the extent of the problem. Like a doctor prescribing medicine, you must first determine what disease the patient has. This has not been done. Therefore, I ask that you defer any action on SB2089.

From: Suzanne Rush [srush2@me.com]
Subject: 2089 SD1, Tourism Committee March 12th 9:30 am,

Please consider that when we hired external real estate management companies to manage our property, we only lost money with these firms because:

1. Our property was not their priority to rent and therefore did not keep it rented more than 50 to 60% of the available dates.
2. The RE/property management company charged fees for everything they did above the agreed upon 35% they collected from receipts for each rental
3. They continually complained that our property was ugly and no one wanted to rent it (Perhaps, the company had another agenda, like acquiring our property to sell?)
4. Never advertised our property
5. Poor communication with issues until they were an expensive crisis...

In short, the Real estate companies are only out for themselves and limiting the competition of owner's ability to provide personal customer service to clients will create more degradation to the tourist rental business.

Time share companies renting and selling real estate do not use licensed realtors for their sales reps. Neither do some real estate and property management companies. Instead, folks are hired and work under a broad license for a realtor who is not even present most of the time. Why should Hawaii legislate for a new, exclusive cottage business limiting competition? Approving this legislation will only create more hardships on the struggling real estate market still spiraling downward. Let's work together and build Hawaii and think about improving property values. Realtors will benefit in the longrun if Hawaii property became more coveted and values start trending upwards. This strategy will require patience. A knee-jerk solution to hand over business to mostly incompetent real estate offices is the wrong way to develop sustainable business. A study regarding the competence of real estate offices would be a better place to start. Build an infrastructure from the ground up. It takes time but has sustainability with the proper monitoring and metrics in place. How about more stringent training and licensing requirements? Passing a test does not make a competent realtor. It just does not. All you get is a person that successfully memorized material to pass a test.

Please do not approve this legislation! It is not democratic and does not serve the best interests of Hawaii.

S Rush, MA
Organizational Psychology & Conflict Mg't

Present Address:
Centre Point Apt 2203
60 Luangsuan Soi 1
Lumpini, Patumwan
Bangkok 10330
Thailand

Thus, the task is not so much to see what no one yet has seen, but to think what nobody yet has thought about that which everybody sees --Schopenhauer

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathy Sheehan
Organization: Individual
E-mail: sheehan.kathyharnett@gmail.com
Submitted on: 3/11/2012

Comments:

To Chair Brower and Committee Members:

As someone who owns vacation rental property on Maui and has contributed to the Hawaii tourism industry (and has paid GE, TA and property taxes to the State of Hawaii) for more than 3 decades, I am writing to express my strong opposition to SB 2089.

Your committee is concerned with Tourism.

This bill (SB2089) will hurt tourism because it signals to tourists that Hawaii doesn't want tourists who prefer to rent directly from nonresident property owners.

These rent-direct tourists represent a huge and growing market. They prefer the "personal touch" of renting directly. They like working with nonresident owners who understand their concerns. They don't want to be corralled back into renting from agents who charge them more, rarely let them see the actual condo/apartment they will get and all too often overbook so that they don't even get the resort they want and are transferred to a lesser resort they don't want. [You only have to visit websites like Trip Advisor to understand this group and their preferences.] These tourists will take their business elsewhere to other destinations outside Hawaii. There are plenty of beautiful places in the world that want them and will cater to their preferences, allowing them to rent directly.

This bill will further hurt tourism because it signals that Hawaii doesn't want nonresident property owners who prefer to rent their properties directly.

These owners represent a huge and growing part of the Hawaii tourism industry. Your legislature has heard from hundreds of them and many more are speaking out on blogs and in op-eds around the country.

They help the Hawaii tourism industry by bringing in tens of thousands (perhaps hundreds of thousands) of new and repeat tourists each year. The overwhelming majority of these owners pay their Hawaii taxes regularly and on time.

They resent the whole tenor of this bill with its underlying implication that just because they are nonresidents they must be tax cheats who do not take care of their guests. They are particularly upset with the statement in SB2089 that "sizable" numbers of them are not tax compliant. This statement, as you know, is not based on any credible evidence at all, only the testimony of a few agents (hotel operators/property managers) who have vested interests in seeing this legislation passed. The only credible data (reported in testimony by the Department of Taxation in 2007) shows that in fact most are tax compliant, not the reverse. They also resent the bill's implication that somehow, just because they are nonresidents, they are less likely than agents to protect their guests. In fact, most rent direct owners have very carefully considered procedures to assure guest protection. This, by the way, is not always the case with agents as several high profile cases in the media have demonstrated.

If this bill with these signals is passed, it will have a cascade effect. First, it will be less attractive for nonresidents to own property in the State of Hawaii. Property values will fall and property tax revenue, benefiting tourism, will decrease. Second, tourists faced with the high costs of renting from agents will go elsewhere and overall revenues from GE and TA taxes, benefiting tourism, will also fall.

SB2089 will further hurt tourism because it signals that Hawaii is a place where the U.S. Constitution, equal protection and even NAFTA do not apply.

As others have testified SB2089 is unconstitutional since, even in its amended form, it still discriminates against nonresident owners burdening them with extra costs and operational procedures to demonstrate tax compliance. Further it attempts to restrict the right of tourists to exercise their preference to rent directly from an owner or go through an agent and, as others have testified here, it appears to violate the provisions of NAFTA (North America Free Trade Act).

These concerns must not be minimized. It's not just that the bill will be contested in the courts. This will certainly be costly for the state. But there are also repercussions for Hawaii's image. You can't trample on individual rights, as this bill does, and expect that Hawaii's image as the Aloha State, a state that is fair and friendly, to be untarnished.

These are significant issues that should be considered and addressed by the Tourism Committee. This will take time. Please do not rush this bill through. The potential damages to Hawaii tourism are far-reaching and should not be taken lightly. There are better ways, outlined by many in these testimonies, to enforce tax compliance and consumer protection.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Andrea Zeiner

Organization: Individual

E-mail: durangocare@gmail.com

Submitted on: 3/11/2012

Comments:

I am opposed. There is a huge cost to condo owners having to pay a realtor. Hawaii will see a mass selling of properties and your tax revenue will dwindle nothing. Please consider no on this.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: david giacomini

Organization: Individual

E-mail: davegiacomini@sbcglobal.net

Submitted on: 3/11/2012

Comments:

Aloha Senator Baker,

I am writing to object to the proposed legislation SB 2089. I purchased a condo in Mauna Lani, Hawaii in 2006, at the peak of the market and have been able to hold on to the condo by being able to rent out the unit myself. The property management companies in Hawaii have been ripping off people for years with management fees as high as 50% of the income. What makes me believe that licensed realtors would act any different? This is another veiled attempt to give business to a special interest group, and ignoring the very people that help facilitate the Hawaiian tourist economy. I feel that to have to hire a licensed realtor to handle the renting of my condo to get tax revenue is unnecessary, as current laws should be enforced to do such. The passage of this bill will only devalue vacation properties as investments in Hawaii. I appreciate your consideration

David Giacomini

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dr Albert W Merrill

Organization: Individual

E-mail: buzz@mahana308.com

Submitted on: 3/11/2012

Comments:

This measure will raise the cost of renting and will result in less revenue to the state. I have owned in Hawaii since 1978 and have efficiently rented my unit. I have always paid my taxes and now these higher costs will result in less revenue to the state of Hawaii. It is discriminatory and does not focus on law breakers. You have not analyzed the impact including the legality of this unfair and even un-American measure and it will get overturned in the courts at cost to the state.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Malia Johnson

Organization: Individual

E-mail: rainbow@maui.net

Submitted on: 3/11/2012

Comments:

This legislation will be punitive to individual condo owners that rent their units on a private basis. It is a way to increase business for real estate companies at the expense of individual investors in Hawaii property.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Linda Hanson

Organization: Individual

E-mail: lhanson2@hotmail.com

Submitted on: 3/11/2012

Comments:

I stongly oppose this bill. As a property owner for a condominium on Maui, using a rental company or third person to manage my unit will take away all profits. I feel this is unconstitutional. I own this property and should be allowed to rent it myself without being required to use a third party. We have a rental co. we use for check-in, cleaning and emergencies. We file our taxes quarterly. We do not need a third party for this. If this bill should pass we will not be able to keep our investment property. It would be too expensive. I love our unit and complex. I travel to Maui twice a year to make sure the unit and complex are to the standards we advertise to our clients. I urge you to reconsider and not pass this legislation. Thank You, Linda hanson

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Eleanor Arita

Organization: Individual

E-mail: eleanorarita@yahoo.com

Submitted on: 3/11/2012

Comments:

We OPPOSE this bill. Needs more consideration of need. Property Managers are not the solution, Implementation date is not practical. Details of those except unclear. Focus on non residents is nonsense and illegal. We do appreciate the consideration of our points that those owners who have followed the procedure for collecting and turning over GE and TA will be exempt. Now go after the illegal renters, that is the real issue, they are the ones cheating the State and Local government. Inserting property managers will decrease tourism to Hawaii, flat out. we already risk TA taxes that are too high, further fees by Property managers will be the end. Poor standards of delivery will ruin the reputation of the vacation rental business, Vote NO.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Brian Maurer

Organization: Individual

E-mail: tmaurer@mtco.com

Submitted on: 3/11/2012

Comments:

We just did our numbers for 2011 taxes and they should give Intrawest pause regarding their business model and the Hawaiian legislature pause regarding the flight of capital which will start occurring if these numbers continue or get worse. We own our one bedroom + den condo at Honua Kai free and clear with no debt and rent it out through Intrawest who manages the property (time constraints prevent us from doing it ourselves). This is how the legislative bill sponsors want everyone to do it. These are the 2011 numbers:

Income	\$65,557
Intrawest management fee	(\$32,037)
GET/TAT tax	(\$8807)
Property tax	(\$7917)
HOA dues	(\$15,545)
Miscellaneous	(\$2377) Phone, wifi, credit card comission, etc. Required for rental
Net income 2011	(\$1126) Loss

Some have said that we should not subtract the GET/TAT from \$65,000. If so, our return is \$7681 - a 0.9% return on our investment. My point still stands - a very poor return on investment.

Our unit rents out a great deal so we do not expect these numbers to improve even if the economy does. We can hope for an increase in equity but so far that is well into the negative since our preconstruction purchase. Hopefully this not too much personal information, but these numbers gravely concern us. Bottom line for us is that you cannot even pay your bills by renting your unit heavily even without debt. Let alone, build a reserve for future refurbishment.

Ted Maurer

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Tim Caudill

Organization: Individual

E-mail: w2wine@yahoo.com

Submitted on: 3/11/2012

Comments:

I am opposed to this legislation. It is discriminates against off Island owners. If I choose to rent my property, I should not be forced to use an on Island rental agency.

Tim Caudill

estimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: MIke Hancuch

Organization: Individual

E-mail: mike@whitehawkservices.com

Submitted on: 3/11/2012

Comments:

Please consider the impact that raising rental rates will have for the majority of your visitors. Rentals through owners are what's made it possible for me to bring my family this year. Otherwise, we would have looked at CA or FL.

thanks!

From: Brent Herrington [bherrington@shaw.ca]
Sent: Sunday, March 11, 2012 4:44 AM
To: TOUtestimony
Subject: SB 2089 SD1

To Whom It May Concern,

I am writing to express my opposition to the above mentioned bill. I rented a condo directly from an owner in June 2011. I paid the appropriate tax and had a marvelous experience on Kauai. If the proposed bill becomes law, with the attendant increase in rental costs, I might well rethink my visit to Hawaii and choose another destination.

Thank you for your attention to my views.

Sincerely,

Brent Herrington
3991 Arlene Place
Victoria, B.C.
Canada
V8Z 6J1

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Laden Jr
Organization: Ekahi Hale LLC
E-mail: jladen@ekahihale.com
Submitted on: 3/11/2012

Comments:

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

This law does not help identify the non tax payers or enforce existing laws which is the problem.

This Law is unconstitutional as it targets a specific group of people instead of all people.

This law damages existing small hawaiin businesses that support individual renters.

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

Tourism is coming back, this could have devastating effect on it. My clients have expressed a concern they no longer can afford coming to Hawaii.

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!

The Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand.

SB 2089

purcellrs@aol [purcellrs@aol.com]

Sent:

Sunday, March 11, 2012 5:36 AM

To:

TOUtestimony

Please vote no on this bill. This will give a negative effect in tourism to Hawaii. There must be a better solution to those owners that seem to have created this issue. More study is needed by attorneys and tax professional people. We are proud and happy to pay our taxes. We own two condos at the Kamaole Sands Resort in Maui. I am also afraid that this would create a very large negative effect to the economy by forcing current owners into forced short sales. Richard and Sharon Purcell 482 Iona Lane Roseville MN 55113. 651-484-4991

Sent via DroidX2 on Verizon Wireless™

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Koshu Madnani
Organization: Individual
E-mail: kaymadnani@hotmail.com
Submitted on: 3/11/2012

Comments:

We are individuals renting our condo as a vacation rental. We pay our GE/TA taxes. Please do not pass this bill as the 40% overhead of renting thru a realtor will drive us out of business.

There are laws to enforce owners like us to pay taxes - please enforce those laws.

VOTE "NO" on this bill

Thank you

Koshu Madnani

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Sattel
Organization: Individual
E-mail: jmsattel@hotmail.com
Submitted on: 3/11/2012

Comments:

We have only had positive experiences dealing with owners directly. The free market works fine. Do not destroy good enterprise with this kind of protection racket. We won't vacation there anymore if you pass this.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Anna Stone

Organization: Individual

E-mail: JesusisLordus@yahoo.com

Submitted on: 3/11/2012

Comments:

This bill will make it impossible to rent to people who want to visit the islands. I think it will also hurt the amount of get and tat tax that you now receive from honest owners. The extra cost will hurt the economy in all areas.

Anna Stone -Fairway Villas Waikoloa, Hawaii.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ian

Organization: Individual

E-mail: wiedmaierian@hotmail.com

Submitted on: 3/11/2012

Comments:

I have rented from 3 different private condo owners and had great experiences with each one. I strongly oppose Proposition sb2089 and do not believe any additional laws should be created to hinder hawaii's travel economy by making it eaves more expensive for us mainlanders to come over and enjoy your wonderful islands.

Opposing SB2089

John Russell [mauifun@aol.com]

Sent:

Sunday, March 11, 2012 7:07 AM

To:

TOUtestimony

Aloha:

I wish to voice my opposition to the above named bill. We are a mainland condo rental business specializing in renting Maui condos for over three decades now. This bill will have a devastating effect on our business.

If we must now run all of our business through a realtor, we will have to shut down our business and fire our staff who rely upon this as their source of income.

We have on-island representation for all the condos, but we rent them inexpensively because we do not have much overhead and operate on a very small profit margin.

With this new proposed bill, costs will go up and because we have to pay the realtor, so we have to raise our rental rates. However, there is a limit on how much people will pay, so our profits will tumble. If profits tumble, we and many of the owners we represent will have to sell our Maui properties because we will not be able to afford them after paying a realtor for doing what we already do -- rent condos and pay taxes.

You will find there will be a rush to sell property in a non-business friendly state and Hawaii will have a huge number of properties on the market, thereby depressing the real estate market and therefore the tax base as well. Additionally, there are many Maui residents who rely upon our business including maids, front desk and condo staff, craftsmen, gardeners, restaurateurs, server's, bartenders, shop owners and many more. This bill will not only target those who are (allegedly) not paying their taxes but may other innocents victims who rely upon tourism for their livelihood.

I urge you to look at the bigger picture. Don't punish the innocent victims in an effort to punish those who are not playing by the rules. Surely, there are other alternatives that can be explored and implemented.

Don't go down a road that will be destructive to the economy and in the long run, hurtful to everyone, not just those who are not properly reporting their taxes. We love Maui and want what is best for our adopted home. This is not best for anyone.

Most Sincerely

John Russell

Dear Sir/Madam:

• This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by academics, accountants, lawyers and tourism personnel. • This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures. • Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner. • Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees. • Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners. • Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment. • Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner. • The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mistreat their guess. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings. • Hawaii will loose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost. • Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. ' • Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings. • The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result and lost bookings and lost revenue for the State. • Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursed brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and **no on SB2089 SD1**.

Sincerely,

Steven Miller
2343 Yale Avenue East
Seattle, WA 98102

From: Lee & Annette [lbajleroy@cox.net]
Sent: Sunday, March 11, 2012 5:57 AM
To: TOUtestimony
Subject: testing

RE: 2089 SD1, Tourism Committee March 12th 9:30 am.

We strongly oppose this measure to further harass property owners on Maui or elsewhere. Will only increase our costs to visit the islands.

Linus and Annette LeRoy
3210 Duane Ave
Bellevue, NE 68123

From: Edith Van Bylevelt [edithloans@yahoo.com]
Sent: Sunday, March 11, 2012 6:41 AM
To: TOUTestimony
Subject: Opposing SB2089 SD1 Amended

I STRONGLY OPPOSE subject bill.

I personally know many people who own a condo on the islands, which they occasionally rent out as vacation rental. They do pay their required taxes, but have managed their rental by themselves. Using a local real estate rental agency takes a big percentage of the income whereas it does not provide the attention and diligence it takes to oversee the needs of the guest and maintenance of the property. My husband and I have been considering to purchase a condo in Hawaii, but passing this bill will definitely deter us from this decision.

The results of subject bill would be:

- 1) Real estate values in Hawaii, which already have suffered tremendously from the recession, will decline even more,
since already financially struggling owners cannot afford a negative cash flow as a result of paying a management company.
This will result in more foreclosures.
- 2) Tourism will be affected, since condo owners will not be able to put cash into their property to enhance and maintain their properties, making it less attractive for vacationers to spend their time on the islands. Although there are plenty of hotels available for vacationers, many families prefer to stay at a condo.

Sincerely,

Edith Van Bylevelt
Senior Loan Consultant
Nat'l Mortgage Loan System License #336511
Calif. Dept. of Real Estate License #1110387
MORTGAGE MAGIC
1625 THE ALAMEDA, SUITE 401
SAN JOSE, CA 95126
408-975-2400 x126
408-313-6162 Cell
408-351-0103 E-Fax

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kimberly S. Johnson

Organization: Individual

E-mail: Hawaiiandreams@charter.net

Submitted on: 3/11/2012

Comments:

It would truly BREAK my heart if this Bill passes!! I have a limited budget and dealing with the owner directly is the only way I can afford to visit these beautiful islands. In this economy, we just can't afford to travel much and this bill would cause MANY people to find a different place to go. I feel Hawaii would suffer tremendously from this bill. Thank you for your time.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Keith Bradley

Organization: Individual

E-mail: kb.ut79@gmail.com

Submitted on: 3/11/2012

Comments:

I OPPOSE this bill because it takes away my freedom of choice and raises costs without adding value. I love Hawaii and have vacationed here with my family many times dealing direct with condo owners. If this bill passes and my costs go up, I will not vacation in Hawaii anymore. There are too many other choices for me and my family to pursue. Please state my opposition to this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: kirsten

Organization: Individual

E-mail: kirstenavogel@gmail.com

Submitted on: 3/11/2012

Comments:

As a frequent visitor to Hawaii I am opposed to this bill as it would significantly increase the cost of vacationing in your state. Airfare and the elevated costs of goods and services in Hawaii already make the destination more expensive than California or Arizona destinations which my family has considered in the past. If rental rates increase by as much as 25% it will just not make good financial sense for my family to continue visiting Hawaii each year.

Please do not pass this bill requiring condo owners to incur this additional unnecessary expense that will be passed on to renters.

Sincerely,

Kirsten Vogel

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Larry Williams

Organization: Individual

E-mail: elgeew@gmail.com

Submitted on: 3/11/2012

Comments:

Please do not vote to pass this bill, as it will further erode our freedoms to choose how we run our lives without government interference.

From: Heather Ann Smith [hasmith3@gmail.com]
Sent: Sunday, March 11, 2012 8:03 AM
To: TOUTestimony
Subject: SB2089 - opposed

In 2005 we investigated the possibility of using a property management company to rent our condo for us. We decided it was not worth it. About two years after that we signed on to VRBO. We took out a business license, which almost doubled our property tax, and have paid all GE and TAT taxes owed. If this bill goes through we will be back to our 2005 position which will force us to take our condo out of the rental market. Renting by owner has been an enjoyable experience. Now we realize how impersonal the property management company would be - not to mention having to put all our information into their pool.

How is it possible for government to require an individual to use a service, which also pays his taxes, for work that the individual is capable of doing himself? People may pay their income taxes by themselves or hire an accountant if they choose. Is there a precedent for this? Is this constitutional?

Heather Smith, California

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Edith Van Bijlevelt

Organization: Individual

E-mail: edithloans@yahoo.com

Submitted on: 3/11/2012

Comments:

This bill will have a devastating affect on the already sliding property values in Hawaii. It will deter investors from buying in Hawaii and will cause foreclosures from owners who can no longer afford their property if they have to pay commissions to real estate property managers.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dixie

Organization: Individual

E-mail: dixieb@westcoastindustrial.com

Submitted on: 3/11/2012

Comments:

This bill is aimed at hurting a certain group of individuals who have made it a choice to invest in Hawaii while helping another group ie property managers and real estate companies, profit from the downturn in other areas of their income.

If this bill passes, Hawaii will see a whole new wave of forecloses and it will also scare off the out of state interest in investing in your state.

In a state where it is already so hard to do business why would you as legislators want to cripple the economy any further to benefit a select group?

From: Seth Yanow [seyanow@yahoo.com]
Sent: Sunday, March 11, 2012 7:42 AM
To: TOUtestimony
Subject: Oppose SB 2089

Dear Senators, I am writing to express my opposition to Senate bill 2089. This bill would be a slap in the face to all of us who bought real estate in Hawaii over the last 10 years and who hoped to be able to make the payments by vacation renting these condos ,houses and apartments for the majority of the year. Many buyers paid a premium ,as we did , to have a condo that could be vacation rented legitimately. There was a recognized need for such units and they sold for more than a "normal" residential condo that could not be vacation rented. Now, 7 years , and one crushing recession, later, we are left with residences that are worth less than we owe on them. Our equity is gone. We have no capacity to pay our mortgages without the ability to manage our own condos ourselves, and thus lower our expenses by 25-45%.

SB 2089 and its counterpart in the House was launched by the sector that stood to gain the most from this legislation : the rental management companies. They have used the exaggeration of loss of tax revenues to the State of Hawaii as the primary reason to support this forced representation by management companies to cover their own selfish interests and the slap-dash way that many of these companies actually "manage" the condos that they are agents for. We have always paid our Hawaii taxes and have filed all the forms necessary to do so, without resistance. I'm sure that the State of Hawaii could find a way to reduce the incidence of tax scofflaws without making it impossible for legitimate taxpayers such as ourselves to realize a return on our investment that enables us to avoid foreclosure in the near future. The last thing Hawaii needs is even more property sitting empty and on the market, driving down property values even further. We want to have the chance to retire in Hawaii in the foreseeable future. This bill will make that dream less likely for us and will raise the cost of a vacation condo to visitors without improving the services we provide to our clients in any way. I implore you to vote against SB 2089 and to find a less onerous and roundabout way of increasing the tax revenues to the State.

Thank you for your consideration
Sincerely,

Seth Yanow
San Anselmo, CA 94960

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Philip & Cheryl Lynn Erickson

Organization: Individual

E-mail: Phil@MauiParadise.Net

Submitted on: 3/11/2012

Comments:

Opposed SB2089 !

This testimony is to indicate our strong opposition to SB 2089 as this bill will very likely have the opposite effect than intended.

We have been property owners on Maui for over 13 years and have greatly enjoyed the islands ourselves on a part time basis as well as providing transient accommodations to bring hundreds of visitors to to the islands. Like most individual owners we have always paid our Hawaii transient accommocation taxes taxes on time and as required by law. In fact we took over the paying of our own transient accommodation taxes due when we discovered that the rental agent we were using was not correctly handling the matter!

Introducing another middleman in tourist lodging accommodations will not increase Hawaii tax revenues and will do nothing to improve the experience for Hawaii's important visitors. In fact it will very likely have the exact opposite effect.

This bill is not a solution to the problem you are trying to solve. We urge you to oppose this bill and look at alternative solutions to ensure that all Hawaii transient accommodations are properly paying their taxes.

Thanks,

Philip & Cheryl Lynn Erickson

Current part time residents and eventual full time residents of
Kihei, Maui, Hawaii

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Candace Harvey

Organization: Individual

E-mail: doncanharv@sbcglobal.net

Submitted on: 3/11/2012

Comments:

We have been visiting Hawaii twice a year for 20 years. We have rented the same condo from the owner every year. We rent cars, pay for tourist entertainment, eat in the restaurants and shop in the stores. This bill looks unconstitutional and, if the bill passes, we will not go to Hawaii again and instead will spend our tourist dollars in Mexico.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Don Shiach

Organization: Individual

E-mail: don@barnesduncan.com

Submitted on: 3/11/2012

Comments:

We have used the VRBO system in different parts of the USA during the last few years and find that dealing with owners directly, who provide us with contacts displaying all cost and taxes, is much more reliable than dealing with property management company or realtors who do not have the same knowledge of the property to be rented. This form of rental use has become widely accepted in the USA and Canada and allows travellers to come to Hawaii or other States and feel they will be comfortable in the facility. There is always direct communication between owner and the person renting.

This may end up in a more underground and hidden rental system whereby owners do not divulge they are actually renting out their property and thus there may be no tax monies forward to the State. It may end up in many tourists opting to look at alternative vacation places besides Hawaii if the cost begins to escalate with additional commissions the agents want for their service.

If someone owns property they should have the opportunity to use the property the way they wish and by renting it to people they are in direct contact with as long as the taxes required by the State are collected and paid to the State. Let's not hurt the small guy who has put up the capital to own and pay taxes to the State. I thought the USA was a country that promotes freedom and this sounds like a dictatorship telling someone they can own here but you can't do anything with it.

Don

A Canadian who owns property in another Province and doesn't need to pay taxes to the local government to rent it to someone else.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose
Testifier will be present: No
Submitted by: Kevin Brown
Organization: Individual
E-mail: kevinbrown9999@yahoo.com
Submitted on: 3/11/2012

Comments: Subject: Opposing SB2089 SD1 Amended

As a Hawaii Property Owner, law abiding taxpayer, future Hawaii resident hopeful I am urging you to oppose SB-2089 SD1 Amended. My reasons are as follows:

SB-2089 is illegal per Hawaii State laws. A realtor will be in violation for representing illegal rentals. This bill conflicts with a current law per testimony by Rico. This law is unconstitutional as it targets non-residents instead of residents .

Agents charge 40-50% commission. We cannot afford to pay our mortgages if we sign up with agents. We have local managers to take care of all maintenance problems, we pay our taxes, we generate revenue in the communities, the condos we own have 24/7 managers and security. Our guests visiting Hawaii are very pleased with our current services and continue to visit this great state because of the outstanding experience they receive.

The agents who will financially gain from this bill have said the State is losing millions. They do not have the qualifications to discuss numbers as serious as tax money.

Many of us property owners have turned to managing properties themselves because of unscrupulous practices by property management companies. We all have had bad experiences and horror stories including overcharging, unauthorized use of our property by their friends and family, using our condo for a party pad for themselves, managing agents receiving kick-backs from vendors who overcharge for repairs, carpet cleaning, a/c servicing, overcharging for replacement of broken items (\$175 for a new coffee maker! etc), items stolen, non-payment to us - the list of horror stories are endless. What measures would be in place to insure these managers will actually pay all collected taxes to the state? This bill solves NOTHING! What about the managing companies who close down unexpectedly?

I fully support the collection and payment of taxes. As owners managing the renting out of our home as a vacation rental we diligently collect and pay all required TAT and GE Taxes in a timely efficient manner. Without factual documentation or evidence to support widespread abuse of non-payment of TAT/GET taxes as suggested especially given the lack documentation of any factual evidence presented is unacceptable. If there is factual evidence that this is the problem enforce existing laws not insert a property manager.

The majority of responsible owners should not be punished as the result of mere speculation and no supporting factual information.

Enforce current laws to ensure compliance - not punish all and create a financial hardship on all.

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

The same issues have happened in several states where so called official "Property Managers" aka Licensed Real Estate Managers who manage rental units have absconded with millions of dollars of owners rent money. There are simply no established systems in place to govern these entities. Clearly what SB 2089 Amended would create is simply another void and NOT a solution!

Perhaps instead of passing this flawed bill we should be looking at how to better monitor existing rentals and ensure tax monies are properly collected and paid.

The Senate ignored 700 pieces of opposing testimony and passed an amendment that no-one can understand.

I strongly urge you to not pass this flawed bill that will not solve any perceived revenue problems and will only create another one

Respectfully,

Marilyn and Kevin Brown
1734 NW Farewell Dr
Bend, Oregon

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ian

Organization: Individual

E-mail: wiedmaierian@hotmail.com

Submitted on: 3/11/2012

Comments:

I have rented from 3 different private condo owners and had great experiences with each one. I strongly oppose Proposition sb2089 and do not believe any additional laws should be created to hinder hawaii's travel economy by making it eaves more expensive for us mainlanders to come over and enjoy your wonderful islands.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jenny Parker
Organization: Individual
E-mail: jxparker852@yahoo.com
Submitted on: 3/11/2012

Comments:

We have two condo properties on Maui since 2008. I pay our TA and GET taxes online myself. This online service is very easy, quick, and convenient. Please do not force me to have to pay someone else on Maui to do. We have a property manager on Maui to manage our rental property, and also do a portion of our own direct rentals.

This would be a dis-service and a much added hassel, and might very well have a negative impact on Maui's real estate, as I would count this bill as a major negative towards owning a property on Maui.

Please do not pass this bill.

Mahalo.

Jenny Parker

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Meera Kohler

Organization: Individual

E-mail: mkohler@avec.org

Submitted on: 3/11/2012

Comments:

Honorable Committee members,

I write today to oppose passage of this highly contentious bill.

This bill is intended to cure defaults that have not been proven to exist. Existing law already mandates that operators of transient accommodations collect and submit General Excise and Transient Accommodation taxes to the State of Hawaii. If anything, the Department of taxation should be provided the wherewithal to enforce current laws, rather than forcing property owners to relinquish management of their assets to disinterested third parties.

I own a condominium in Maui that I use primarily for my own second home but that I rent through VRBO to visitors to Hawaii. I run a reputable small business that barely breaks even after paying association and lease fees, taxes, utilities and local housekeepers and craftsmen. As required by law, I have an on-island agent who, coincidentally, happens to be a licensed realtor.

If I were forced to utilize a management company to “manage” my modest rental business, I firmly believe that the quality of our visitor occupancy would decline and the management of the property would be negatively impacted. There is a vast difference between an owner managing their personal residence and a management company with no stake in the asset operating a pool of units. I have numerous guest reviews on my VRBO website attesting to the wonderful experience that guests have had and lauding us for the excellent housekeeping and maintenance that is our hallmark.

No empirical evidence has been provided to confirm the existence and dimensions of a

“problem.” Heated testimony supporting both sides of the argument, however, is plentiful.

Today you will hear from the Hawaii Association of Realtors that their 8,500 members oppose passage of this bill. Their voices are added to the hundreds from whom the Legislature has heard in recent days.

We non-resident owners are at a disadvantage at this time. We cannot be present in person to demonstrate to you our opposition testimony. But we hope you recognize that we have invested in Hawaii in good faith and because we dearly love your state. I believe we truly demonstrate aloha to our guests – much more so that any “management company” can do.

Please hear our collective voice and do not allow this measure to pass into law.

Mahalo,

From: Allen Dayton [adayton@cox.net]
Sent: Sunday, March 11, 2012 8:33 AM
To: TOUtestimony
Subject: Please do not Pass SB2089 as this is Blatantly Not American.

Subject: SB2089

In America, everyone should have the right to manage his or her own property subject to the Constitution. This bill would deny this right to many hard working Americans who struggled to acquire the property in the first place. I believe the Bill does not stand for American values and is not Constitutional and will probably be subjected to a long and expensive to everyone court battle. If the goal is to insure that all those renting their property pay the proper taxes, I believe there are effective ways to make sure that this tax money is collected by the State of Hawaii.

I respectfully ask you not to pass this bill.

Allen D. Dayton
Property Owner, #915, Kaanapali Shores, Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Edward Mescher
Organization: Individual
E-mail: LHILLSJOE@aol.com
Submitted on: 3/11/2012

Comments:

We own 3 condos on Maui. Passage of this bill is unfair to nonresidents and will cause many owners to sell, depressing real estate prices further. Only benefit of this bill will be property managers. we have had bad experiences with many property managers.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Denise Grocutt

Organization: Individual

E-mail: denise@columbiaridge.com

Submitted on: 3/11/2012

Comments:

We visit Hawaii at least once or twice annually. This will increase costs and will certainly impact our decision to vacation in the Caribbean versus Hawaii. I doubt that is in the best interest of the state's economy as we will not be alone.

From: Chris Markell [ecmarkell@earthlink.net]
Sent: Sunday, March 11, 2012 8:48 AM
To: TOUtestimony
Subject: Opposed SB2089

To Whom it May Concern

I own two Condominiums on Maui at Maui Kamaole and although I do rent them through a management company I believe that this bill is the wrong way to go about collecting taxes that only a few people do not pay.

Do not punish the majority who do the right thing and pay the taxes for their renters who stay at their places but find a better method to collect these taxes. I understand that this bill does not affect those who like myself use a management company but this is the wrong way to go about fixing a problem.

Respectively Submitted
Chris Markell

Chris Markell | Foxridge Wine Consulting, LLC | p: 707 857 9878 | f: 707 857 9877

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Krista Tulloch
Organization: Individual
E-mail: Ktulloch@shaw.ca
Submitted on: 3/11/2012

Comments:

As a visitor who annually spends 1-2 weeks in Hawaii with family, we have enjoyed superior management and accommodations through individually owned, rather than property managed companies. We have found individually owned units have superior furnishings, attention to concerns, and clearer communication. If we were unable to book with owners, we would likely look to book our vacations in other locations where direct booking was possible.

Thank you for your consideration.
Krista Tulloch
North Vancouver, BC

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Franklin and Sharon Ordelleide

Organization: Individual

E-mail: fsordel@gmail.com

Submitted on: 3/11/2012

Comments:

TO: The State of Hawaii Lawmakers

We own one condo in Maui and have enjoyed using it as well as renting it to select people throughout the year. We have faithfully paid all taxes ever since owning it. We are disheartened by the upcoming proposals, forcing us to use Local Real Estate Companies solely to rent our condo. With the ever increasing maintenance costs, utility costs, taxes, housekeeping costs, and management fees, if this goes through, we will most likely be forced to sell our unit. It is impossible to have 40-50% of our commissions taken from us and still meet our expenses. We work concurrently with Maui Condo and Home now, who pay our taxes, and can rent it for their clients when it is free. It has worked beautifully for us and everything has been legal.

We are puzzled as to why you are not going after those who have not paid the taxes, instead of penalizing those of us who have?? This kind of law making is unamerican and we are sorry to see it come to one of our United States. We feel in the long run you will hurt even private enterprise on Maui and cause a glut of real estate to go up for sale, driving prices down, and tourism away.

We are hoping a less arbitrary law can be put in place to go after the lawbreakers instead of the law keepers.

Franklin and Sharon Ordelleide
10004 Tepopa Drive
Oakdale, CA 95361

209-847-9096

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Don Huntress

Organization: Individual

E-mail: donhuntress@earthlink.net

Submitted on: 3/11/2012

Comments:

Just what problem does this fix? I will have to sell my condo if this passes further depressing the local real estate market.

Don Huntress

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carole Fall
Organization: Individual
E-mail: carolefall@comcast.net
Submitted on: 3/11/2012

Comments:

Dear Legislators:

As a frequent visitor to Hawaii, I can tell you that this legislation will result in higher prices being charged visitors to cover the additional expenses of owners to rent through a managing agent. It is also likely to result in many owners deciding not to rent their condos or homes. Many will sell them. There will likely be fewer units and homes available which will result in higher prices paid by visitors. Many visitors will chose other destinations which are less costly. This legislation is also unconstitutional as it discriminates against non-resident owners.

Why don't you just enforce the laws you already have to collect the TA and GE taxes.

Why do you legislators always think that you must make more laws? You have all the tools you need now to collect TA and GE taxes.

- This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by academics, accountants, lawyers and tourism personnel.

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

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

- **Increased vacation rental costs will lead to decreased visitor numbers to Hawaii** - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.

- **Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii** - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and *personal* relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.

- **Owner managers provide a superior experience to Hawaii's Visitors** - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.

- **Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch** - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.

- **The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time.** - Now that the public has open access to review the vacation

rentals on these websites, owner-managers can ill afford to mistreat their guest. Condos with negative guest reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.

- **Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis.** - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.

- **Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii** - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '

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

- **The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers** - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result in lost bookings and lost revenue for the State.

- **Give the Hospitality Industry & Homeowner Assn. time to resolve the problem-Owner Direct bookings are not a Real Estate area. The last couple of years the majority of owners that left their Rental Manager were in the real estate area and not the Hospitality area.**

- **Conclusion** - We support the State's right to collect its share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursued brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and no on **SB2089 SD1**.

**Craig T Chandler
Kamaole Sands Owner
Mission Viejo, CA
949-584-3120**

From: Gary Michalchuk [info@mauiholiday.net]
Sent: Sunday, March 11, 2012 8:05 AM
To: TOUtestimony
Subject: testimony SB2089

I am an owner of 3 vacation rentals on Maui and I am not in favor of the proposed changes (2089 SD1) that will force me to use an licensed real estate broker to rent all of my properties. There are many reasons for my opposition which I am sure you have already heard so I will make this short just to let you know that I am opposed to this approach to reduce or eliminate delinquent transient tax collections.

Sincerely,

Gary Michalchuk, Owner
15207 - 49 Ave, Edmonton, Alberta, Can
T6H 5P2

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Don Debienne
Organization: Individual
E-mail: don.debienne@shaw.ca
Submitted on: 3/11/2012

Comments:

This legislation caused far more harm than it prevents. It will unduly punish the law abiding owners and will negatively impact the vacation rental and vacation condo real estate businesses to the detriment of the State of Hawaii. This legislation needs to be modified so that it focuses on the problem instead of taking a shotgun approach which is ineffecient and ineffective. We are disappointed in the lack of vision and foresight in a government that develops such poorly thought out measures. Hopefully the government will reconsider the wisdom of this measure and focus on developing legislation to deal more directly with the problem.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandra Good
Organization: Individual
E-mail: sandy@agoodjob.com
Submitted on: 3/11/2012

Comments:

Let's keep our tourism WITHIN the United States of America!!
Work with the people....not against them. We need everyone
working together in this country to continue to lead the world.
Not make it more difficult to make money OR sustain our
investments OR enjoy our vacations when we've finally earned
one!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dr. Wayne L Aspinall

Organization: Individual

E-mail: waspinall@cox.net

Submitted on: 3/11/2012

Comments:

Sounds to me like this is just another way to line the pockets of Realtors and their agents. I can see no benefit to the general public. In fact, it will make it more expensive to visit Hawaii from the mainland. I'm sure the real estate lobby is behind this. Don't be bought.

From: Cullen Goodyear [ccgoodyear@me.com]
Sent: Sunday, March 11, 2012 8:01 PM
To: TOUtestimony
Subject: testing

Opposing SB2089 SD1 Amended

I am a condo owner on the Big Island with a Hawaii Tax #. I am responsible and submit my TAT and GET quarterly.

Please do not punish those of us who are law abiding owners at the expense of the few who are not.

Support paying tax – but are opposed to inserting property managers or realtors into the equation.

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

Mahalo, Cullen Goodyear

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Dan Carpenter
Organization: Individual
E-mail: dic9944@yahoo.com
Submitted on: 3/11/2012

Comments:

This bill is a solution to a non-problem. The vast majority of vacation rental Owner have been proven to pay their taxes even if they are not operating within county ordinances. We should be helping these people stay in business, not trying to drive them underground.

From: S Couturier [frediver@gmail.com]
Sent: Sunday, March 11, 2012 7:46 PM
To: TOUtestimony
Subject: 2089 SD1, Tourism Committee March 12th 9:30 am

As a off island owners of a Condominium on Maui We are Opposed to this bill in any form. We have rented our Condominium for 10yrs how and always paid all taxes due, you will be adding still another fee burden to our already costly operating expenses that we can scarcely afford. No agent on the islands will collect this added fee for free nor will they forward private rental income without additional charges to an already slim margin for direct rental owners. In our opinion SB 2089 will cost more money than it will recover and perhaps force many out of the rental market costing still more tourism dollars. Those of us with Tax numbers are not the problem, we bring money to the islands, You should not be penalizing us but rather help to promote our businesses, this SB2089 does not do that.

Sincerely
Jeff Couturier
716 brasher ct.
Santa Rosa Ca. 95405
&
Kamaole Sands 6/305
2695 S.Kihei rd.
Kihei, Hi.96753

From: Kathy Fastenau [safeaunt@gmail.com]
Sent: Sunday, March 11, 2012 7:08 PM
To: TOUtestimony
Subject: 2089 SD1- Tourism Committee

Please vote NO on this bill!
Thank you,
Dave and Kathy Fastenau
Honolulu , HI

Sent from my iPhone
Kathy Fastenau

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas O. Raskowsky
Organization: Individual
E-mail: surfparadise@hawaiiantel.net
Submitted on: 3/11/2012

Comments:

I oppose this bill in it's current form. I pay my taxes and would like to see other options.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kathleen K. Raskowsky
Organization: Individual
E-mail: kittiekr@comcast.net
Submitted on: 3/11/2012

Comments:

I oppose this bill in it's current form. I pay my taxes. Feel this is putting the cart before the horse. There are better ways to resolve this issue.

Thank you,

Kathleen K. Raskowsky

From: Audrey Rasmussen [akrasmus@comcast.net]
Sent: Sunday, March 11, 2012 6:25 PM
To: TOUTestimony
Subject: Opposition to Senate Bill SB2089

Dear Sirs:

We would like to register our opposition to SB2089. We are out of state owners, and we faithfully pay all of the Hawaii state taxes on our rentals. I was born and raised in Hawaii, and understand the importance of tourism to Hawaii's economy. And I believe that this will harm tourism as well as investment in Hawaii real estate, at a time when the state cannot afford additional negative economic effects. This bill is unnecessary for owners like us who pay the required taxes -- so it seems unjust to punish those of us who are responsible owners, due to a few who may not be paying their taxes. Enforcing the existing laws and catching the offenders would be a better course. We oppose SB2089 for the following reasons:

- This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by academics, accountants, lawyers and tourism personnel.
- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.
- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner.
- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personalrelationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.

- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.
- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mistreat their guest. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.
- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.
- Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '
- Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.
- The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result in lost bookings and lost revenue for the State.
- Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursued brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and no on SB2089 SD1.

Thank you for your consideration of our opposing views.

Mahalo,
Roy and Audrey Rasmussen

From: Terrie Kansas [tjkansas@shaw.ca]
Sent: Sunday, March 11, 2012 6:19 PM
To: TOUTestimony
Subject: Opposing SB2089 SD1 Amended

Please do not pass this bill. As a non-resident vacation rental owner of a condo in Kihei, Maui. I am one of the majority who comply with the tax laws. Don't punish us, punish those who don't comply. I suggest you send out tax info when you send out property tax information, or with the phone bill or utility bill for those who may inadvertently not be complying.

Regards,
Theresa Kansas
Canada

From: Bonnie Hayes [hayesbon@aol.com]
Sent: Sunday, March 11, 2012 6:02 PM
To: TOUTestimony
Cc: Yanow Adam; Whiteley Molly
Subject: Senate Bill 2089

Dear Senators,

I am writing to express my opposition to Senate bill 2089.

I am not a rich person; I'm a self-employed musician with an income of about \$75k per year. I want to retire someday, but that dream is looking less and less likely. Seven years ago, I went in with four other normal middle class people to buy a condo in Maui, with the intention of making the payments by vacation renting it for the majority of the year. I invested \$40k, my daughter's college fund, which is now gone; she's taking student loans to fund her education, and I am hanging on to the condo, and thus to my own home and other savings, by my fingernails. Like many buyers, we paid a premium to have a condo that could be rented to vacationers legitimately. There was a recognized need for such units and they sold for more than a "normal" residential condo that could not be vacation rented. Now, 7 years, and one crushing recession, later, we are left with residences that are worth less than we owe on them. Our equity is gone. We have no capacity to pay our mortgages without the ability to manage our own condos ourselves, and thus lower our expenses by 25-45%.

SB 2089 and its counterpart in the House was launched by the sector that stood to gain the most from this legislation: the rental management companies. They have used the exaggeration of loss of tax revenues to the State of Hawaii as the primary reason to support this forced representation by management companies to cover their own selfish interests and the slap-dash way that many of these companies actually "manage" the condos that they are agents for.

We have always paid our Hawaii taxes and have filed all the forms necessary to do so, without resistance. I'm sure that the State of Hawaii could find a way to reduce the incidence of tax scofflaws without making it impossible for legitimate taxpayers such as ourselves to realize a return on our investment that enables us to avoid foreclosure in the near future. The last thing Hawaii needs is even more property sitting empty and on the market, driving down property values even further. If you pass this law, we WILL lose our condo to the bank, as will many others who are in similar situations. And we actually stand to lose our other retirement savings and personal residences as well. Our kids are already paying and will be paying for many years to come. All of us invested in Hawaii and still believe it's the most beautiful place on earth; please don't punish us, and Hawaii residents, with a punitive law that helps no one.

I implore you to vote against SB 2089 and to find a less onerous and roundabout way of increasing the tax revenues to the State.

Sincerely, Bonnie Hayes, San Anselmo, CA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Steven Morley
Organization: Individual
E-mail: sdsteve10@gmail.com
Submitted on: 3/11/2012

Comments:

- This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by academics, accountants, lawyers and tourism personnel.
- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.
- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner.
- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.
- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.
- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mistreat their guest. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.
- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.
- Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites.
- Hawaii will create a strong competitive disadvantage compared to destinations that allow direct to owner bookings.
- The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result and lost bookings and lost revenue for the State.
- Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursued brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and no on SB2089 SD1.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose
Testifier will be present: No
Submitted by: John Henery
Organization: Individual
E-mail: joehenery@hotmail.com
Submitted on: 3/11/2012

Comments:

I have been robbed by a 'booking agent' broker on the island, NO MORE. they rent and dont report it to the owners, they just pocket the money. We occasionally rent. I have the right to interview and rent to who i want to.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Patricia Teaderman
Organization: Individual
E-mail: steaderman@directv.net
Submitted on: 3/11/2012

Comments:

This is an unnecessary bill that will penalize the owners of all rental properties due to the actions of a few that have not followed the proper measures to take care of their tax obligations. It takes away a property owners rights. We have had a condominium since 1978 and have had rental agencies and rented it out our selves and always paid the proper taxes. Please defeat this unnecessary bill SB2089 SDI
Patricia M. Teaderman, member
Teaderman Business Park, LLC 221 Devlin Rd. Napa, CA 94558

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Michael Hatley
Organization: Individual
E-mail: hatleym@gmail.com
Submitted on: 3/11/2012

Comments:

Aloha Committee Members,

As a law abiding resident of California that rents out his condo on Maui and diligently pays his TAT and GET taxes, I am opposed to this legislation for many reasons that have been entered as testimony before other committees working on this legislation. This law is counter to the U.S. Constitution equal protection provisions. This law will force many non-resident owners to sell their properties and therefore reduce property tax revenues. The previous committee added language to exempt people like me as long as we got an annual tax clearance from the Hawaii Department of Taxation and included a copy of federal tax form 990. That is a form for tax-exempt entities, which I'm not. Was this a mistake, or was this intentional so that nobody would be exempt from this act? Thank you for your consideration.

Michael Hatley

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sherron Bull

Organization: Individual

E-mail: gecko.hale@gmail.com

Submitted on: 3/11/2012

Comments:

1. My name is Sherron Bull, I am a resident of Hawaii, and I manage a vacation rental condo unit on the Big Island of Hawaii. I appreciate the opportunity to present testimony opposing Senate Bill No. 2089 SD1, Relating to Transient Accommodations.

2. One of the primary stated purposes of this Act is to "ensure greater compliance with applicable state and county laws by owners who operate transient accommodations in this state." There have been numerous unsubstantiated and baseless assertions as to the extent of this non-compliance in the submitted testimony. Unfortunately, there have also been erroneous statements on the extent of non-compliance made in Committee hearings in reference to the Hawaii Tourism Authority (HTA) investigation of 2005.

a. In the Committee on Tourism report SSCR2043 on the bill, it was stated that: "Your Committee notes that the Hawaii Tourism Authority published a study in 2005 on the scope of the problem – estimating 9,000 units in noncompliance at the time – and that this information was shared with the Department."

b. However, the HTA submitted testimony on HB 2078 to the House Committee on Tourism on 1/30/2012 in reference to their 2005 study and stated: "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."

c. The Department of Taxation testimony to the House Committee on Finance on April 3, 2007, opposing bill SB 750 SD 3 HD 1 related to Transient Accommodations Tax, also addressed the same HTA 2005 study. Their testimony stated, in part:

"INCREASED SCRUTINY MAY DRIVE TAXPAYERS UNDERGROUND-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. The Department fears that any increased scrutiny could potentially backfire and drive otherwise tax compliance individuals 'underground.' Taxpayers that are forced 'underground' can have a direct impact on collections.

"THE NECESSITY OF THIS BILL IS QUESTIONABLE-The Department believes that this legislation is unnecessary. One issue that arose in prior committees was the status of the Department's efforts with the HTA regarding the audits of transient accommodations providers, including bed and breakfasts.

"The HTA employed a consultant to search the Internet for advertisements for bed and breakfast operators and vacation rentals in Hawaii. HTA provided the results of this search to the Department. HTA's consultant located 1,452 advertisements for bed and breakfast operators and 6,902 advertisements for vacation rentals. Many advertisements were redundant because many operators and renters advertise on more than one website.

"After correlating HTA's information with the Department's files and other information that was available, the Department initiated 123 audits on bed and breakfast operators that the Department believed were not properly reporting Hawaii

taxes. The Department also initiated 182 audits on vacation renters.

"Of the 305 combined cases, the Department has closed 68 audits and assessed \$1,473,219 in delinquent taxes."

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

d. The "9,000 units in noncompliance" that the SSCR2043 Committee of Tourism report attributed to the HTA's 2005 investigation is obviously in error. The HTA in their testimony on HB 2078 stated their 2005 investigation found "several thousand" undocumented accommodations, not non-compliant tax avoiders. The Department of Taxation's testimony opposing SB 750 SD 3 HD 1 stated that of the 8,354 advertisements provided by HTA's 2005 study, many of which were redundant, the Department initiated audits on only 123 bed and breakfast operators and 182 vacation renters; and closed only 68 of the combined 305 cases assessing only \$1,473,219 in delinquent taxes.

e. This is a far cry from the 20-30 millions of dollars that proponents of this bill are claiming that non-resident vacation rentals are costing the State. Nor does it give any credence to the claims that the majority of non-resident vacation rental operators are non-compliant.

f. It is highly unlikely that the incidence of non-compliance has drastically and exponentially increased in a mere 7 years. And yet this bill will punish all the law-abiding and compliant vacation rental owners by imposing a huge financial burden by hiring a Property Manager that will force many of them into foreclosure or to sell their property at a loss in an already depressed economy.

3. This bill will also deprive vacation rental operators of their property rights as owners, by taking away their right to decide how their property is to be used and who will be permitted to use it.

4. Individual property owners, which this bill targets, have a vested interest in their own property and in their own rental business – which a 3rd party Property Manager does not. All non-resident rental owners have a local agent to take care urgent matters, as they could not function otherwise. They also want to insure their guests are happy and well cared for, or else the guests will not return. All a 3rd party manager is concerned with is filling beds, and they aren't particular about which rental those beds are located. When the visitors complain, the Property Managers just switch them to another unit or facility.

5. It is also likely that forcing vacation rental owners to use a "real estate professional" will in fact lead to more tax crime, not less. In the "Property Writes" blog of the Hawaii Association of Realtors on January 30, 2012, entitled "Tax Director Finds Real Estate Profession has the Most Criminal Convictions," remarks by the Tax Director of the Department of Taxation are presented that include: "As a word of caution, since the inception of the Department's criminal investigation division in 1996, the industry with the most number of criminal tax convictions is the real estate profession." [Reference: <http://propertywrites.wordpress.com/2012/01/30/tax-director-finds-real-estate-profession-has-the-most-criminal-convictions/>]

6. I urge you to please reject S.B. 2089. Thank you for the opportunity to testify.

Yours truly,
Sherron M. Bull
Hale Pohaku Vacation Rentals, Big Island

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Margy Swenson

Organization: Individual

E-mail: margy_baker@yahoo.com

Submitted on: 3/11/2012

Comments:

I strongly oppose SB2089. I live in Utah, and have made several trips to Oahu, Hawaii and Kauai. Each time I have rented from private owners and had a great experience. I have also paid tax on the rental. I believe that should SB2089 pass, the cost of lodging will increase dramatically for tourists like me, which may cause me to choose other less expensive destinations. I have always had great experiences renting privately, far better than I would have had staying in a hotel- please don't take this opportunity away!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Steven Lecon
Organization: Individual
E-mail: steven.lecon@yahoo.com
Submitted on: 3/11/2012

Comments:

Dear Hawaii Representatives:

This bill creates a huge variety of conflicts of interests. Our condominium consisting of 450 units has 150 owners renting through the front desk, 150 owners renting on their own, and another 50 units are time interval units. We cannot have 20 different management companies renting out units, and another twenty cleaning companies as well. We had no idea that there was a problem until this last few weeks. In California, the State Board of Equalization allows a business owner to put up a surety bond to guarantee the payment of sale taxes.

Rico could not handle the "can of worms" this bill will open up ...complaints against the real estate brokers, sales persons, condo management companies, arbitration, mediation and endless litigation tying up the court system. Where is the forensic accounting that enabled this bill up to be brought before you and exactly who was responsible besides the Real Estate Brokers?

The Counties and the State must get off their chairs and get busy collecting money that is owed. We, as Homeowners, work hard to get the rentals and pay our fees...

Vote "NO" on Bill SB2089.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Comments Only
Testifier will be present: No
Submitted by: David Linssen
Organization: Individual
E-mail: HawaiiRBO@gmail.com
Submitted on: 3/11/2012

Comments:

I would like to recommend a change to Section 2(d) to read
"...tax clearance along with its federal tax form 990 OR
FEDERAL FORM 1040 SCHEDULE C to the..."

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Don Scarr
Organization: Individual
E-mail: scarrsy3@telus.net
Submitted on: 3/11/2012

Comments:

We have been renting a condo in kihei via the owner for quite a few years now and find it to be a very functional and positive method of visiting the beautiful state of Hawaii. We oppose this new bill which will take away the owners right to rent their properties directly out to visitors who in turn are going to contribute to Hawaiian economic growth.

Thank you,
Don and Donna Scarr

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Edna McMillen
Organization: Individual
E-mail: mcmillene@gmail.com
Submitted on: 3/11/2012

Comments:

I have rented directly with condo/property owners twice in Hawaii and both experiences were far superior to my experience with realtors and/or property managers. Our needs were met by the private owners beyond our expectations while the realtors/property managers were minimal to say the least. Should this legislation become law, I will spend my vacation dollars elsewhere. I want to stay with people who care about their guests' experience instead of just making money off the tourist. Thank you for considering my point of view.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carrie Cooney
Organization: Individual
E-mail: ccooney223@gmail.com
Submitted on: 3/11/2012

Comments:

This law is unconstitutional as it targets non-residents instead of residents

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

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

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

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Lawrence & Diane Bridger

Organization: Individual

E-mail: bridger1@cogeco.ca

Submitted on: 3/11/2012

Comments:

We are opposed to the legislation.

We visit Hawaii twice a year for 2 weeks in the spring and 5 weeks in the fall. We have always rented from owners through VRBO and have never been disappointed. It is our understanding that rental rates will probably rise as a result of this legislation. Hawaii is already more expensive than most 'sun' destinations that we would consider visiting. This legislation may very well push prices to the point that we would consider Hawaii to be a much less attractive holiday destination. If many others feel as we do then we suspect that this legislation will have a serious NEGATIVE impact on Hawaii's tourism.

Lawrence & Diane Bridger
Burlington, Ontario, Canada

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: ernie gabona
Organization: Individual
E-mail: egabona@gmail.com
Submitted on: 3/11/2012

Comments:
Concerning SB2089,

Once again, we have a situation which will lead to unintended consequences, much like the bill to tax retirees. Our principal residence is in Hawaii and we do own a rental unit already managed by a property manager. Yet, I can see obvious detrimental issues which will affect all of us. And, yes, my wife and I are registered voters in Hawaii.

Mahalo for your attention.

Ernie Gabona

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Fred Boettler

Organization: Individual

E-mail: bdint@comcast.net

Submitted on: 3/11/2012

Comments:

I am opposed to this biased, unfair proposed law. It is totally a way for a special interest group to take money from non residents of Hawaii. Why do Hawaii residents not have to hire a Property Manager?

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Craig Dunn

Organization: Individual

E-mail: craigwdunn@sbcglobal.net

Submitted on: 3/11/2012

Comments:

I am a vacation rental owner on Kauai.

I am OPPOSED to the passage SB2089.

I am OPPOSED because of additional costs that will be imposed by a licensed RE property manager will cause me to likely withdraw my unit from the vacation rental market. It will also likely cause me to have to sell my unit since with additional management fees imposed by a RE licensed manager, I will not generate enough income to offset my many expenses in this challenging economy.

I urge you to deny passage of SB2089.

Craig Dunn

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Darcy Bruno
Organization: Individual
E-mail: dbruno216@gmail.net
Submitted on: 3/11/2012

Comments:

Please think long and hard before passing something that will impact so many and not in a good way. People should have to right to rent out their homes and condos without paying someone to do exactly what they can do BETTER! Thank you.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose
Testifier will be present: No
Submitted by: Samantha Payne, Ph.D.
Organization: Individual
E-mail: sampayne@hawaii.rr.com

Comments:
RE: SB 2089

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

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

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

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

I would be happy to work with those in charge to come up with a plan that assures taxes will be paid, a plan that will penalize only those who have not been paying their GE and TA taxes. As this law now stands, Hawaii would become a state that discriminates against those who have complied with our laws. Is that the image we want project to the rest of the country? What great PR that will be, and believe me, with twitters and tweeters, face book and email, word will get out. Look at the response Hawaiian airlines treatment of the couple here to celebrate their 50th anniversary received nationwide. Moral people will look elsewhere when making vacation plans if we keep treating non residents unfairly.

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

I think I'm perceptive enough to understand exactly how mainland owners are feeling and how they will respond. I believe if we persist to the passage of this law, we will find many owners putting their properties up for sale. You must know that we do not have buyers for the vast majority of properties currently on the market. I sure wouldn't hold my breath expecting someone to buy and continue to operate most of the vacation rentals that will be added to the "for sale" lists.

There's just not that much money in this business. The vacation rental by owner business is a huge one with a huge following. The people who rent from owners want to rent directly from owners for all the obvious reasons. If Hawaii doesn't offer this option, those tourists are not going to simply switch to management companies any more than avid Bed and Breakfast travelers would switch if you closed down a large portion of all B&B's. Travelers will merely look elsewhere when planning vacations, and visit those states and countries that still allow vacation rentals by owners.

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

Respectfully,

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

Aloha Committee,

1. I am opposed to subject bill. I do support paying tax – but am opposed to inserting property managers into the equation when only one unit is owned by either a resident or a non-resident. What will you require a property manager for a long-term lease also? I pay my GET taxes and believe other ways to insure others pay theirs. Fines, criminal prosecution, and penalties already exist to deter fraud. Simply requiring all owner-renters to post their license in their property listings/advertisements will discourage tax-cheating owners. This bill will result in nonresident owners of single properties going to rent their property, and even avoid paying the current tax they presently pay. There have been reports that owners of "more than one unit" are not complying with the current real estate law (HRS 510-10) that states that one must be a real estate broker to lease, rent or manage real estate and only those who are employed as a custodian or caretaker for one single owner. Therefore, another law taking away the exemption will not insure payment of taxes.

2. I believe the law is unconstitutional as it targets non-residents instead of residents. What says non-residents are more likely to evade taxes than the residents? What proof of this fact do you rely on? There are many homeowners in Hawaii that rent their property out on their own and do not collect or pay the correct taxes. We need to devise a system to collect those taxes.

3. Tourism is coming back, and this bill could have devastating effect on it. What other industry is the government to hand control of their business to outsiders whose sole function is to collect our revenues and take 25-50% for the privilege? Real estate is starting to come back, and this bill will make it so owners can't afford to keep their properties and would have to sell – flooding the market. Property managers are the ones to benefit from this law, everyone else loses!

5. This bill would further reduce Hawaii's competitiveness as a vacation destination, creating increased costs that will be borne by our customers and us as owners. Hawaii already has among the highest combined lodging tax rates in the US. Its distance from population centers and the cost of transportation create significant disadvantages for the State, and adding more costs to vacationers will reduce our income. You should first develop a thorough understanding of the perceived problem and provide statistical evidence to confirm why the issue exists, and then follow up with appropriate legal action against those who do not comply.

6. The Hawaii Department of Taxation should create a public awareness campaign about vacation rental taxes and laws that are required to be followed. Develop brochures/material that all vacation renters can use that clearly points out what is expected in terms of compliance.

7. I would support a requirement to include tax numbers on all ads---I have to do so in the lease c document for my long-term lessees. I ask that you think of other ways that the government can ac without legislating use of property managers and rewarding one constituency at the expense of an

Sherley Blodgett
3823 Lwr Honoapiilani Rd, Apt 317
Lahaina, HI 96761-8911
Tel: 808-669-5305
Email: SheriBlod@aol.com

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: cheri potechin

Organization: Individual

E-mail: cheripotec@aol.com

Submitted on: 3/11/2012

Comments:

Aloha

SB2089 is a bad bill for the Hawaiian Economy and below are the reasons why:

- This Bill creates the potentially massive disruption to the Hawaii Tourism economy and real estate markets - More study is needed by academics, accountants, lawyers and tourism personnel.
- This legislation could force a new wave of sales, foreclosures and short sales in the Hawaii Real Estate Market - Many property owners have purchased their properties well above current market value and most of these owners are barely making ends meet. There is a high-percentage percentage of owner-managers that will not be able to afford 25% to 45% management fees, and the real estate market will be flooded with sales, short sales and foreclosures.
- Declining property values in Hawaii will reduce the tax base and result in lower property tax revenues for the State of Hawaii. - In addition to forcing current owners into default and foreclosure, a condo that must be rented through a management operator is less valuable than one that can be lawfully rented by its owner.
- Increased vacation rental costs will lead to decreased visitor numbers to Hawaii - This will legislation create a monopoly for the few qualified condominium hotel operators in Hawaii, who likely be able (or even have to) increase their fees.
- Owner - Visitor interaction and long term relationships encourage repeat Visitors to Hawaii - Vacation Rentals that are lovingly managed by their owners foster good will and long term relationships with their guests, many of whom return to Hawaii year after year. As a rule, Condo Management Companies do not create the same kind of long term and personal relationship with their customers. Hawaii will lose repeat visitors to destinations like California, Mexico, Arizona and Florida, where travelers can still form relationships with owners and deal directly with vacation rental owners.
- Owner managers provide a superior experience to Hawaii's Visitors - Dedicated Owner Managers are providing a better experience to Hawaii's visitors. Online rating systems indicate that vacation rentals thoughtfully and personally managed by their owners provide a more positive experience than those mass marketed by professional management companies. Looking at the FlipKey website, which has very high traffic, the vast majority of the highest rated vacation rental listings are by owner-managers. (Flipkey has an open rating system lists both owner managed and professionally managed vacation rentals, so it is a very good barometer of consumer sentiment.

- Owner-Managers make Visitors part of Hawaii's Ohana. Travelers in today's impersonal online world increasingly appreciate a personal touch - The personal care, attention to detail and feeling of Ohana that responsible owners offer their guests can never be replicated by management firms. The experience of connecting the owner with the guest is a valuable and tangible asset that will be lost under the provisions of this bill. No employee of a management firm will ever promote a rental with the same heart, devotion and passion as it's owner.

- The online rating system, now available on websites like FlipKey, VRBO and HomeAway will weed out the "bad apples" over time. - Now that the public has open access to review the vacation rentals on these websites, owner-managers can ill afford to mistreat their guests. Condos with negative guests reviews will quickly be pushed to the bottom of the listings and will not receive many new bookings.

- Hawaii will lose thousands of "Goodwill Ambassadors" who promote travel to Hawaii on a daily basis. - Condo Owner-Managers promote travel to Hawaii everyday... at no cost to the State. Each owner fields dozens of phone calls and e-mails per week, answering questions and promoting travel to Hawaii. If rental transactions are forced into the hands of local management firms, most of this marketing effort will be lost.

- Visitor will be lost to other warm weather destinations such as California, Arizona, Mexico and Hawaii - Travelers looking for owner-direct vacation booking on sites like FlipKey, VRBO, and HomeAway will be re-directed to other warm weather destinations still listed on these websites. '

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

- The Hawaii Vacation Rental market will lose "dynamic pricing ability", reducing market efficiency, and possibly reducing Visitor Numbers - Owner-Managers make pricing and promotion decisions every day enticing visitors to Hawaii. Owners frequently make on the spot decisions regarding rental rate that include last minute specials, long stay promos, discount to fill gaps between existing bookings etc. Condo Management firms will lose this dynamic pricing ability as they will not be able to contact owners on each and every booking. Loss of "dynamic pricing ability" will reduce the efficiency in the market that will likely result in lost bookings and lost revenue for the State.

- Conclusion - We support the State's right to collect it's share of revenues generated by General Excise and Transient Accommodation Taxes. There needs to be a CLEARLY DEFINED PATH for owner-managers to register their units, if the State feels this step necessary, so that the tax filings can be monitored accordingly and non-paying owners pursued brought into compliance. Owners who are in compliance with State laws and who pay their taxes should not be penalized and forced into hiring a third party manager. Doing so would seriously jeopardize Hawaii's fragile real estate and tourism economies. Please do not throw out the baby with the bath water and no on SB2089 SD1.

Respectively

Cheri Potechin

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Cenaiko

Organization: Individual

E-mail: ken.cenaiko@croatiaindustries.com

Submitted on: 3/11/2012

Comments:

As an individual whom has successfully rented condos directly from owners, I oppose this measure. Following multiple rentals I have never encountered issues such as unprepared rooms, unavailable rooms or without contact information in such case that other issues may have occurred. I have dealt with two owners in particular who I intend to rent from again in the future. Regrettably, I will refuse to return, or in fact recommend, Maui as a holiday destination should I be forced to deal with a third party not connected to ownership of the condo. Please do not proceed further with this measure.

March 11, 2012

Honorable Legislative Members,

I am writing to you to express my disappointment in the first passage of SB2089 SD1 Amended.

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

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

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

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

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

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

Mahalo in advance for your time and understanding.

Kindest regards,
Lisa Burroughs Kim
757 Rose Lane
Los Altos, CA 94024
650-947-4845

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Elena Kounitski

Organization: Individual

E-mail: maui@kounitski.com

Submitted on: 3/11/2012

Comments:

I am an owner of two condos on Maui and I rent and manage them myself. I have good local cleaning company taking care of the cleaning and repairs. My Hawaii Tax ID No is W30614028-01 and I pay all taxes. I will have to sell the units if I am forced to hire a manager, I am just making the ends meet now managing myself and not having to pay to a manager.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Colleen Huntress

Organization: Individual

E-mail: mauihuntress@earthlink.net

Submitted on: 3/11/2012

Comments:

We tried the RE management for our condo over a period of several years and had many many problems. Many months our management was making more that we were and we strongly felt that our renters were not being taken care of. We feel that the only way our renters are going to be taken care of the way we want them taken care of is to handle the job ourselves. This has been proven true by our returning renters year after year. This is our property. We have the right to manage it. We are doing our best to keep our head above water and keep this condo. We do not need Real Estate Brokers to rent property we own. We have rented other properties all over the world through VRBO and it works beautifully. Why can't you let it work in Hawaii?

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: garry hajek

Organization: Individual

E-mail: mauialoha@hotmail.com

Submitted on: 3/11/2012

Comments:

This is a very bars idea this will cost many jobs and loss of rental taxes to the state of hawaii people will start going to other vacation states instead of hawaii do not pass this bill you will distroy a lot of jobs and families

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Trent Parker
Organization: Individual
E-mail: jxparker@gmail.com
Submitted on: 3/11/2012

Comments:

Aloha,

Even though we don't live on the island, we contribute to the economy of the great state of Hawaii. Please don't pass a law to punish those of us who aren't lucky enough to live on the island year round.

This bill will undoubtedly negatively affect Hawaii's real estate market, as well as negatively impact the vacation condo rental market which is popular for its many visitors.

Some of us need the rental income to help pay for the mortgages and the high cost of doing business in the state of Hawaii. Please don't force us have to sell.

Please do not pass this bill.

Mahalo.

GENTLEMEN;

WE ARE EXTREMELY OPPOSED TO THE PASSAGE OF THIS BILL.

WE HAVE SPENT OVER 30 YEARS CULTIVATING OUR HAWAII CLIENT GUESTS AND THEY COME BACK TO US YEAR AFTER YEAR BECAUSE OF THE FRIENDSHIPS WE HAVE DEVELOPED OVER THE YEARS AND OUR WELL DESERVED REPUTATION FOR HONESTY AND RELIABILITY. OUR HARD WORK WILL BE DESTROYED AS PROPERTY MANAGERS THAT WE HAVE KNOWN OVER THE YEARS DO NOT HAVE PERSONAL CONTACT WITH THEIR CLIENTS.

INSTEAD OF PASSING A BILL WHICH WILL NOT ALLOW INDIVIDUAL OWNERS TO RENT THEIR OWN UNIT/S, YOU SHOULD BE GOING THE OTHER WAY TO HELP THE PRIVATE OWNERS WHO EACH YEAR SEND THOUSANDS OF TOURISTS TO HAWAII. NO BODY, EXCEPT MAYBE REALTORS, PROPERTY MANAGEMENT COMPANIES, AND LARGE HOTELS BENEFIT FROM THE PASSAGE OF THIS LEGISLATION. THE STATE OF HAWAII, IT SEEMS, WILL NOT BENEFIT DIRECTLY, BUT WILL LOOSE TAX INCOME, SINCE LARGE NUMBERS OF WOULD BE TOURISTS WILL GO TO OTHER VACATION DESTINATIONS. THESE PEOPLE COME TO HAWAII, OVER AND OVER, YEAR AFTER YEAR, BECAUSE THEY TRUST THE VRBO'S WHO CULTIVATED FRIENDSHIPS WITH THEM OVER THE YEARS. YOU ARE DESTROYING VRBO OPERATORS WHO HAVE BEEN PROMOTERS OF COMING TO HAWAII, AND MANY WHO WILL LOOSE A SIGNIFICANT AMOUNT OF THEIR INCOME.

PLEASE VOTE NO TO THE PASSAGE OF SB2089 SD1.

YOURS VERY TRULY

DAROLD W. PRICE
BEVERLEY J. PRICE
KIHEI SURFSIDE, # 501/610
2936 S. KIHEI RD.
KIHEI, HI. 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Pamel & David Matthai

Organization: Individual

E-mail: matthai@att.net

Submitted on: 3/11/2012

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 SB2089 SD1 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 compliant."
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 SB2089 SD1. 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.

Mahalo,

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sylvia Remington

Organization: Individual

E-mail: svandiamo99@gmail.com

Submitted on: 3/11/2012

Comments:

It totally oppose this bill which is taking rights away from property owners.

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

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

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

Regards,

Sylvia Remington

Waikoloa Hawaii

La Conner WA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Laurelee S Nelson

Organization: Individual

E-mail: laurelee.nelson06@gmail.com

Submitted on: 3/11/2012

Comments:

My partner and I are joint owners of a condo in Kona that we use ourselves and rent out as well. This legislation will unduly punish all the responsible owners like ourselves who comply with all state and federal laws.

This measure will negatively impact real estate sales and will reduce vacation rentals due to the significant increased costs that will be passed on to renters. This is not good for Hawaii, not good for the real estate industry, not good for tourism and not good for owners like us who are in the majority. Focus on the violators with better, more focused legislation that does not cause more problems than it cures.

From: Jill Luvaas [jluvaas@frontier.com]

Sent: Saturday, March 10, 2012 10:13 PM

To: TOUTestimony

Subject: Opposed to SB 2089 SD1

Hello,

I would like to express my opposition to SB 2089. We rented a condo on Kauai through VRBO last July. We had a great experience with the rental and received excellent service from the owner, better than we have ever received from a rental agency/property manager. We also paid taxes on the rental. With the reasonable rate at the condo, we were able to spend two weeks in Hawaii; however, if the price were to increase to cover the realtor/rental agency arrangement required by SB 2089, we would likely have reduced the overall length of our stay. Please help keep Hawaii as an affordable vacation destination and do not pass SB 2089 SD1 .

Sincerely,

Jill Luvaas

Portland, OR

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lee Kilburn
Organization: Individual
E-mail: leekilburn@gmail.com
Submitted on: 3/10/2012

Comments:

This is a Wasteful & useless Bill

To increase owner compliance and simplify the collection process, why not just request a copy of "Schedule E" Form 1040 of the owner's Federal tax return be submitted for each rental property as part of the TAT "Annual Return and Reconciliation" (Form TA-2) which is due April 20 each year? The total "Rents received" on the "Schedule E"(s) should equal the "Gross Rental Proceeds" reported for TAT purposes. This would avoid the exorbitant administrative expenses of requiring all rental owners on Maui to hire licensed property managers to process all rental monies, render full accounting services and pay all TAT taxes for owners of rental properties, whether a resident or non-resident.

From: Guy In Marin [guyinmarin@hotmail.com]

Sent: Saturday, March 10, 2012 8:39 PM

To: TOUtestimony

Subject: I am opposed to SB2089

Dear Sirs/Madames,

I own two properties in Maui County.

One is used as a vacation rental which I do the bookings myself. I have used a property management company in the past, and found them not effective and in the end raised the cost to my customers since the rents had to cover the commissions paid to the property management company.

I pay all of my General Excise and Transient Accommodations taxes on a timely basis.

I do not need the services of a licenced real estate broker to do my bookings for my vacation rental.

I am totally opposed to SB2089 and believe it is a violation of my rights to rent my property to whom I want.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ron Hansen

Organization: Individual

E-mail: ronhansen99@aol.com

Submitted on: 3/10/2012

Comments:

SB2089 IS INEFFECTIVE AND USELESS LEGISLATION

SB 2089 is more likely to decrease Hawaii's tax revenues, than increase them, because:

1) Vacation rental investors will go elsewhere--CA, Flor., C. Rica, etc. where there is no 30% to 40% management "tax"...the extra cost of owning a HI investment.

2) Decreasing vacation rental investments/purchases decreases real estate values, which decreases HI property tax revenues. Likewise the amount of rental revenues decrease...thereby decreasing TA and GET tax revenues faster than any "police force real estate agent tax reporting" scheme can increase taxes.

3) With fewer vacation rentals, rental prices for condos/hotels increase, thereby reducing affordability and availability for tourists...reducing tourism revenues and tax receipts.

FOR INCREASING HAWAII TAX REVENUES THE EASY SOLUTION IS:

A) Add one line to the TA and GET annual tax filing:

"Gross Rental Income on HAWAII INCOME TAX RETURN_____"

B) Attach copy of taxpayer's HAWAII INCOME TAX RETURN Schedule EE to the annual TA and GET tax filing.

C) Continue the counties' annual questionnaire to each condo building manager...identifying the unit number and its use as residence, long term rental, or vacation rental.

Respectfully submitted,

Ronald E. Hansen

808-242-1601

190 Hauoli St, Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Dusckett
Organization: Individual
E-mail: thedusketts@cox.net
Submitted on: 3/10/2012

Comments:

As a property owner who already pays GET and TOT taxes, this new layer of financial burden is too much at this critical economic time. Follow the lead of the House and please defeat this bill. Mahalo.

From: Denis G. Gleason [vrbo43771@yahoo.com]

Sent: Saturday, March 10, 2012 9:30 PM

To: TOUtestimony

Subject: I am opposed to SB 2089

Dear Sirs/Madames,

I own two properties in Maui County.

One is used as a vacation rental which I do the bookings myself. I have used a property management company in the past, and found them not effective and in the end raised the cost to my customers since the rents had to cover the commissions paid to the property management company.

I pay all of my General Excise and Transient Accommodations taxes on a timely basis.

I do not need the services of a licenced real estate broker to do my bookings for my vacation rental.

I am totally opposed to SB2089 and believe it is a violation of my rights to rent my property to whom I want.

Denis Gleason

Denis G. Gleason

Owner - Grand Champions Villa #100

415 925 0260 (9AM-6PM - Pacific Time)

<http://www.vrbo.com/43771>

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mickey Feldt
Organization: Individual
E-mail: debmah1@gmail.com
Submitted on: 3/10/2012

Comments:

I am the owner of 84-1021 LahiLahi Street #804
Waianae, HI 96792

Presently I have a Property Management Company taking care of my
condo. I am not satisfied at all, they don't take care of
property issues in a timely manner, such as cleaning, booking,
repairs. They have consistenly disappointed me. The condo
managment does not feel like it is their priority.

Sincerely,

Mickey Feldt
808-696-8040

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jon D Hopper

Organization: Individual

E-mail: hopperjd@yahoo.com

Submitted on: 3/10/2012

Comments:

I oppose this bill on the grounds that it will tend to make ownership of rental property in Hawaii less desirable, further depressing property values, and also increase costs to travelers, decreasing the number of visitors to the state. It also is clearly discriminatory towards non-residents, and likely unconstitutional as such.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: monique peace

Organization: Individual

E-mail: peacefamily3@gmail.com

Submitted on: 3/10/2012

Comments:

I oppose this bill. As a condo owner who pays transient taxes, my right to choose who manages my condo rentals and guests, should not be taken away from me. This should be my descision. I should have the right to self-manage and hire my own on-island contacts for my guests.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312
Testifier position: Oppose
Testifier will be present: No
Submitted by: Jeanne villa
Organization: Individual
E-mail: Jvjvl@comcast.net
Submitted on: 3/10/2012

Comments:

Passage of this bill will DESTROY the VRBO market. This is the only possible way that I and many of my friends can afford to visit your beautiful state. While there, I support the tourism, food, beverage and entertainment industries. Whenever possible, I support local businesses.

Requiring non resident owners to add a layer of cost and bureaucracy will help no one.

Keep government regulation out of the VRBO market. Keep Hawaii accessible to all visitors, not just the wealthy elites!!!

Thank you for consideration of this opposition to an oppressive bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: David Rosenberg

Organization: Individual

E-mail: davidrosenberg208@gmail.com

Submitted on: 3/10/2012

Comments:

My wife and I own a condo in Maui, self-manage our condo, pay our taxes and are in strong opposition to SB 2089 SD1. By requiring that non-resident owners employ a property manager or a licensed real estate professional, you are taking away a free market mechanism and putting the benefit in the hands of a specific protected group. Our experience has shown in our building that the units that are managed by on-island property managers receive much less favorable reviews than owners, who have the vested interest in ensuring their guest are taken care of. There are two basic reasons owners have stopped using property managers: a) they charge outrageous fees for minimal work, and b) they don't care about the owners' property. The horror stories of what has happened to owners' property when property managers have handled it has filled the blogs and testimony presented to various legislators. All they care about is their cut, which they get for minimal work and no risk of loss.

How can a legislator in good conscience vote for a bill which :

- 1) Has no factual evidence to support it. Not one fact has been produced in any testimony in favor of this bill to support the claim that large numbers of non-resident owners are not paying their GET/TAT. There are only rumors, guesses and innuendo advanced by property managers who stand to reap millions of dollars in profits by the passage of this bill. The last audit done by the government in 2007 showed a high rate of compliance.No evidence has been produced to show that this has changed.**
- 2) Assumes that all resident owners pay their GET/TAT and non-resident owners do not. Not one piece of evidence has been produced to suggest that non-resident owners have any higher rate of non-compliance than resident owners. One major property manager and outspoken proponent of this bill still had a 7.25% TAT rate on his website (almost three years after it was changed) until non-resident owners pointed it out to senators this past week!
- 3) Punishes thousands of non-resident owners who pay their taxes faithfully. This bill will cripple thousands of owners by taking as much as 40% of their rent from them and putting it into the pockets of the property managers who will not do anything more than the owners already are doing.
- 4) Will flood the market with sales and foreclosures lowering property values which will result in lower

property taxes collected. Many owners find their rental activities are marginal at best. Many, such as ourselves, will be forced to sell or be foreclosed, because they cannot afford the steep losses that would result from this bill. Banks affected by foreclosures will become more reluctant to issue mortgages for these properties, doing further damage to the Hawaiian economy.

5) Removes the choice of how their property is to be managed from those who have invested heavily in the Hawaiian economy? Owners are the people who have taken the risk of investment. If we can prove that we are paying our taxes, then our right to manage our property should not be abridged in favor of managers who have no risk whatsoever in the investment made by ourselves.

6) Removes from tourists the choice of who they want to rent from?

More and more tourists have chosen to rent directly from owners because they have found better facilities and more personal contact when dealing with owners who have a vested interest in maintaining their condos in excellent condition and serving their renters. Before we bought our condo, we chose to rent directly from owners for precisely these reasons. Managers were distant and difficult to access. Owners cared!!!

7) Is patently illegal? The commerce clause of the United States Constitution prohibits giving economic advantage to one group over another. This bill is blatant discrimination and like many other state laws and local ordinances that have been challenged over the years will likely be overturned in Federal court as they have been.

8) Will add cost to the Hawaiian budget? This bill adds another layer of bureaucracy to the government. The processing of thousands of tax clearance forms annually for tax-abiding non-residents will add cost to the state.

9) Transfers the duty to pay taxes from the taxpayer to a property manager but does not protect the owner if the property manager fails to pay the taxes. A good case in point is the Property Network in Kona three years ago where the manager took off with the owners' money, but the owners were still obligated to pay the taxes.

10) Exhibits no promise that it will be enforced any more than current law. If the state isn't enforcing the current law, what reason is there to believe that lawbreakers will abide by this law any more than they are obeying the current law? If the state can enforce this new law, why can it not enforce the current law?

While the amended bill offers an exemption in certain circumstances, it will not benefit the non-resident owners who pay their taxes but do not submit a Federal Form 990. A Federal Form 990 is the Federal Return for an organization exempt from tax, which we are not.

From: Russell Taft [mauiruss@hawaiiantel.net]

Sent: Saturday, March 10, 2012 8:47 PM

To: TOUtestimony

Subject: SB2089 SDI and HB 1707

I wish to express my opposition to the pending bill HB 1707 to require owners of vacation rentals to hire a realtor or property manager to collect rents and making it illegal for that task to be accomplished by the owners themselves.

I have no dog in this fight as I am a resident of the state and taxes for my rental unit are collected by my property manager. However I feel the pending law is ridiculous and is yet another example of government attempting to solve their problems by putting the onus on to the citizenry. I recognize the intent of the proposed law is to assure that the state is collecting all the taxes that are currently due in the statutes. It seems that there would be many ways to enforce this law directly and not resort to establishing yet another new law which effectively would put the burden on those who follow the existing law. Get tough with the offenders of the existing law directly. Have you really considered all of the negative impact and costs that would result from this ill-conceived proposal? Does anyone in your esteemed House have any common sense in how to take care of business, No it seems to me that in this case you just pass the problem off by proposing an ill-conceived and a stupid law. You are effectively kicking the can down the road. Why not get tough on existing offenders of the existing laws. There is sufficient computer power and data bases to track down current offenders. How about getting a task force together that knows something about problem solving in an effective manner.

Please stop problem solving as politicians and kill this proposed law.

Sincerely,

Russell Taft

PO Box 1256

Kula HI 96790

(808) 878-6725

Gail Baker

Aloha Senators,

I am writing to oppose SB2089 SD1. I am a non resident homeowner who rents their townhome to help pay the costs of ownership. From reading the testimony it sounds like the reason for this bill has to do with the nonpayment of GET & TAT by owners that rent their homes. There is already a law which addresses paying these taxes and there are certainly other ways to enforce this law besides forcing homeowners to rent their property through a real estate broker or licensed real estate agent. When we purchased this home we knew that we would have to rent the property to be able to afford it. It was not in our original profit and loss estimate to pay a real estate company to rent the property for us. Should this bill pass we will no longer be able to pay for this property and will be forced to sell at a time when the property is worth 50% less than when we purchased it. This bill seems like it is unconstitutional by taking away the right of the homeowner to choose how they wish to manage their property.

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

The real estate market has been a complete disaster with the amount of foreclosures and short sales. Our complex is finally to the point that almost all of these properties have been sold and there is now becoming more of a demand to buy properties which will hopefully bring back some of the value which we have lost. Should this bill be enacted it will create another onslaught of properties that will have to be sold due to the fact that the owners will not be able to afford the negative cash flow created by having to pay a realtor a commission. This bill will also affect the future sales of properties due to the cost to hold the property by the purchaser.

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

This bill not only seems unconstitutional it also seems like it is discriminatory to nonresidents. On island residents can be just as negligent in paying the GET & TAT as a non island resident. At all levels of government, whether it be state or federal, the consequence for not paying taxes

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

In conclusion it seems that the best way to handle the tax collection issue is to hire someone to police it and impose the proper penalties. No homeowner should be forced to use a realtor to rent their residence. I do believe that if this bill passes that there will be a class action suit filed against the government which will cost much more than paying someone to oversee that the proper taxes are being collected.

Sincerely,

Gail Baker

From: Amy, Corrado, Isabelle and Alexander Fabbro [casafabbro@comcast.net]

Sent: Saturday, March 10, 2012 8:35 PM

To: TOUtestimony

Cc: Holoholo@yahoo.com; Dean Burroughs

Subject: Opposing SB2089 SD1 Amended

March 10, 2012

Honorable Legislative Members,

I am writing to you to express my disappointment in the first passage of SB2089 SD1 Amended.

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

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

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

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

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

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

Mahalo in advance for your time and understanding.

Kindest regards,

Corrado Fabbro

1697 Madeira Circle,

Petaluma, CA 94954

707-773-1634

From: Douglas Mitchell [mitdoug43@yahoo.com]

Sent: Saturday, March 10, 2012 8:29 PM

To: TOUtestimony

Subject: Opposed to SB 2089 SD1

Committee on Tourism 3/12/12 9:30 am

I am writing to you in regards to SB2089, SD1 recently passed on to the House by the Senate. I am a property owner of two condos in Maui and I rent them out for vacation rentals. I keep good records of rents collected and pay TAT and GET taxes on a monthly basis. I also pay the State of Hawaii nearly 3 times the property taxes that residents pay on their property because i do short term rentals.

If I am forced to use an agent in Hawaii I will have to raise prices considerably in order to make a profit. We currently have many returning guests because we have a good product and reasonable rates. Some of them will not be able to pay the higher rates and will look elsewhere to vacation. That, too, will result in lower revenue to the state.

Let's face it. Times have changed, the rental business is different and consequently management and rental businesses have to change to the new reality. They can't run to the state and ask for special legislation to protect them. The State of Hawaii needs to do a better job of enforcing legislation that already exists regarding collecting of taxes, not punish those of us who comply.

In the past I did have an agency manage my rentals. The first one was pretty good, and we had a good relationship with them. Unfortunately the agency was sold, and the new management group was terrible. We tried to work with them for two years. Things went from bad to worse. In the last year we worked with them they secured three rentals for us at one of our properties, and we did the rest. We still had to pay them! We decided to manage the properties on our own and have been successful in working this way.

Please do not pass this legislation SB 2089 SD1.

Sincerely,

Doug Mitchell

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim Waters

Organization: Individual

E-mail: casalomac@shaw.ca

Submitted on: 3/10/2012

Comments:

My wife and I have been coming to Maui every winter for the past six years. We usually stay three to four months and put thousands of dollars into the local economy. We are strongly opposed to the measure which would add an unnecessary middleman to the process of booking long-term rentals. It would add expense to our winter holiday and prompt us to look and go elsewhere instead. Please vote NO on SB2089.

Mahalo,

James Waters

From: a.yanow@comcast.net [a.yanow@comcast.net]

Sent: Saturday, March 10, 2012 8:19 PM

To: TOUtestimony

Cc: mollywhiteley@yahoo.com; seyanow@gmail.com

Subject: Oppose SB 2089

Dear Senators, I am writing to express my opposition to Senate bill 2089. This bill would be a slap in the face to all of us who bought real estate in Hawaii over the last 10 years and who hoped to be able to make the payments by vacation renting these condos ,houses and apartments for the majority of the year. Many buyers paid a premium ,as we did , to have a condo that could be vacation rented legitimately. There was a recognized need for such units and they sold for more than a "normal" residential condo that could not be vacation rented. Now, 7 years , and one crushing recession, later, we are left with residences that are worth less than we owe on them. Our equity is gone. We have no capacity to pay our mortgages without the ability to manage our own condos ourselves, and thus lower our expenses by 25-45%.

SB 2089 and Its counterpart in the House was launched by the sector that stood to gain the most from this legislation : the rental management companies. They have used the exaggeration of loss of tax revenues to the State of Hawaii as the primary reason to support this forced representation

by management companies to cover their own selfish interests and the slap-dash way that many of these companies actually "manage" the condos that they are agents for. We have always paid our Hawaii taxes and have filed all the forms necessary to do so, without resistance.I'm sure that the State of Hawaii could find a way to reduce the incidence of tax scofflaws without making it impossible for legitimate taxpayers such as ourselves to realize i return on our investment that enables us to avoid foreclosure in the near future. The last thing Hawaii needs is even more property sitting empty and on the market, driving down property values even further. We want to have the chance to retire in Hawaii in the foreseeable future. This bill will make that dream less likely for us and will raise the cost of a vacation condo to visitors without improving the services we provide to our clients in any way. I implore you to vote against SB 2089 and to find a less onerous and roundabout way of increasing the tax revenues to the State.

Sincerely, Adam Yanow and Molly Whiteley of Kihei , Maui and Soquel, California

Dear Sirs

We are non-resident California owners of Wailea Ekahi 33A. We have rented our condo for 20 years.

Please DO NOT approve SB 2089.

Our condo is self managed. We have a cleaning agency who acts as our agent on Maui for housekeeping and any needed services or repairs. We rent our condo, collect the fees, and pay the GET/TAT taxes. We had several different management real estate companies in the beginning.

We discontinued using real estate agencies for several reasons.* The fees were too high. For current owners who purchased properties to rent when sales were much higher, they may have a hard time paying an agent to collect fees and pay taxes. This could cause more foreclosures.

* The real estate rental agents were not responsible and/or reliable. An agent used our condo for friends, collecting no fees. They also took personal condo property, failed to rent our condo when it was available, and padded their fees with non-existent and/or unneeded items and services.

* Maintenance when we had an agent was inferior.

* We personally do not trust agents with our funds and would be very reluctant to have them collect fees or pay taxes. We think they are less likely to be honest than the individual owner.

Condo rentals by individual owners have a positive influence on vacations rentals.

* Rentals by owners are able to provide more individualized services for their guests. We provide basic food supplies, all cleaning, and paper supplies. Check-out times are individual. We believe this helps tourism in Maui and reflects positively on the vacation rental business in Hawaii.

Collecting fees and paying taxes is time consuming. I would not like to pay someone else to do this. We think it would be quite expensive.

We are proud of our condo. We spend a significant amount of time keeping it up to date and in excellent condition. Our condo is not a money maker. Any excess funds are used to upgrade our condo. These funds are spent in Maui. The money is kept in Hawaii.

Although collecting GET and TAT is not an issue for the Dept. of Taxation, there are many ways to check to be sure all taxes are paid without owners being required to use rental agents. There is no data to indicate that rental agents could do a better job. And so we ask, if this bill is being sponsored by the real estate lobby to enhance their revenue, it is wrong.

We are also concerned that we would be discriminated against because we do not live in Hawaii.

Please do not require us to hire an agent to collect funds and pay taxes.

Sincerely,

John and Barbara Ranelletti

=====
John and Barbara Ranelletti
5821 St. Andrews Drive
Stockton, CA 95219
(209) 478-0340

email: ranelletti@sbcglobal.net

Maui Rendezvous in Wailea Ekahi, Maui
<http://www.mauirendezvous.com>

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: James & Marybeth Purvis

Organization: Individual

E-mail: jnpurvis@live.com

Submitted on: 3/10/2012

We strongly oppose SB 2089. 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 and vigorously oppose the provision that requires that we use a hotel operator as the rental manager and that they file our taxes.

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 hotel operator manage their hotel condominium is, in my experience, patently false. In fact, I no longer allow the "well known, large" hotel operator manage my unit because I caught them renting out my unit without my permission and pocketing the money. I 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.

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 every month.

I stand with the HAR in opposing this Bill. If this bill is passed, it will force those management companies who represent owners who are not under the hotel management scheme, out of business.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marilyn Whiteley

Organization: Individual

E-mail: moretimeformau@yahoo.com

Submitted on: 3/10/2012

Comments:

I am an honest, hardworking and responsible California resident, owner and self-manager of two vacation rental condo's on Maui. I pay my transient taxes on time and file a Hawaii tax return every year. Passage of this bill will make it impossible for me and many other non-resident owners to afford to maintain my vacation owner-direct rentals and thus, will seriously negatively impact Maui's tourist industry and economy. Increased airfare is already hurting the tourist industry. We will have to increase our rent to cover the costs of property managers, but that will definitely reduce the number of tourists who can afford to visit Maui. This will hurt many local people, who rely on non-resident owners for employment and the business our clients bring to Maui.

Thanks for your attention to this serious issue.

Marilyn I. Whiteley
3241 Crystal Heights Dr.
Soquel,
CA 95073

From: Debi [debi.b.peterson@gmail.com]

Sent: Saturday, March 10, 2012 8:00 PM

To: TOUtestimony

Subject: Opposed to SB 2089

Please do not pass this bill!!!! It will have horrible economic repercussions.

Debi Peterson

From: Cynthia Ruhmann [cyn.ruh@telus.net]

Sent: Saturday, March 10, 2012 7:57 PM

To: TOUtestimony

Subject: Opposition to Senate Bill SB2089

To Whom it May Concern:

I would like to take this opportunity to express my strong opposition to the above bill as it infringes on my right to own and rent out my own property. It is the American way and the American dream to own and operate property without a middleman. It is unequivocally unconstitutional and absolutely irresponsible of those who approve and pass the bill as it is now presented. If it's not already clear, forcing property owners to use the services of property managers or realtors will result in a dramatic increase in foreclosures (which will obviously result in even less tax being paid and collected) and/or increased rental costs (i.e. less tourism dollars). Not only that, but the entire Bill is unconstitutional as it targets non-residents instead of residents. That point aside, how is it right to punish all non-resident owners who properly pay taxes, file forms and abide laws due to the few who do not? Please, please consider a mutually beneficial way to resolve this issue rather than hastily pushing a bill through that isn't properly thought out. Please do not ignore the testimony coming through opposing this bill.

I fully support paying tax and can only recommend some form of official "taxpayer registration" to ensure that both residents and non-residents are fully compliant without the State losing out on tax revenue. For example there it could be made mandatory to include tax numbers on all ads posted on VRBO, etc. to ensure compliance (assuming the government has a way to ensure there are no negative privacy/theft related issues/concerns). How do other states do it that also have non-resident owners renting out property?

Property managers are the ONLY ones to benefit from this law, everyone else loses! For anyone that chooses to pass this Bill, you will experience the negative effects as people lose their jobs due to reduced tourism, your property values will drop yet again as many of us will be forced to sell/foreclose on our properties flooding the market with cheap condos and homes and the recovery that seemed to be on track will be reversed.

In summary, the Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand so NOT passing this bill is a "no brainer", especially if you want to ensure the future viability of the tourism sector in the State of Hawaii while also increasing tax revenue in order to maintain the proper infrastructure required to support both residents and tourists.

Mahalo and Aloha,

Cynthia Ruhmann