

TAXBILLSERVICE

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SUBJECT: ADMINISTRATION, TRANSIENT ACCOMMODATIONS, Whistleblower awards; expedited appeal officer; penalty provisions; TAT registration

BILL NUMBER: SB 2947, HD-1

INTRODUCED BY: House Committee on Economic Revitalization and Business

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to provide that if the director of taxation proceeds with an administrative or judicial action for any violation of HRS Title 14 based on information received from an individual, that individual shall receive an award of at least 15% but not more than 30% of the collected proceeds including penalties, interest, additions to tax, and additional amounts; provided that no award shall be made unless: (1) in the case of actions brought against an individual taxpayer, the taxpayer's gross income exceeds \$200,000 for any taxable year subject to the action; (2) the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$500,000; and (3) the information provided to the director of taxation by the individual is submitted under penalty of perjury.

If the director of taxation determines that the proceedings are based on disclosures of specific allegations rather than information provided by the individual resulting from a judicial or administrative hearing or from a governmental report, hearing, audit, or investigation, or from the news media; the director of taxation may award such sums as the director of taxation determines to be appropriate, but in no case more than 10% of the collected proceeds, including penalties, interest, additions to tax and additional amounts, resulting from the action, any related actions, or any settlement in response to the action, taking into account the significance of the individual's information and the role of the individual and any legal representative of the individual in contributing to the action.

If the director of taxation determines that the claim for an award under this section is brought by an individual who planned and initiated the activities that led to the violation, the director may reduce the award accordingly; provided that if the individual is convicted of criminal conduct arising from those activities, the director of taxation shall deny any award. Within 30 days of any determination regarding an award, the determination may be appealed to the tax appeal court which shall have jurisdiction over the matter. No contract with the department shall be necessary for any individual to receive an award under this section.

Amends HRS section 231-7.5 to allow the director of taxation to appoint an administrative appeals officer to administer this section and other duties as directed.

Amends HRS sections 231-36.4, 231-36.6 and 231-36.8 to prevent the multiple imposition of the penalty provision of 20% on any underpayment that is imposed under HRS section 231-36 (false and fraudulent statements), HRS section 231-36.6 (substantial understatements or misstatements of amounts) or HRS section 231-36.8 (erroneous claim for refund or credit). The amendments to these sections shall be applicable to tax years beginning after December 31, 2011.

Amends HRS section 237D-4 to require all advertisements and solicitations of transient accommodations to display the registration number or the website address containing the registration number provided that if the operator resides out of state or on another island from where the transient accommodations are located, the contact information of an agent who resides on the island where the transient accommodation is located shall be included. This section shall take effect on January 1, 2013.

EFFECTIVE DATE: July 1, 2012

STAFF COMMENTS: While the proposed measure establishes monetary awards for individuals (whistleblowers) who provide information regarding violations of tax laws, it should be noted that it is applicable only to the department of taxation. The measure sets thresholds which must be exceeded in order for an award to be made to insure that the award is only for major violations of the tax law as well as limits as to the size of the award. Consideration should be given to extending a similar provision to all other state departments and government agencies to allow each government entity to "police" itself and standardize awards and provisions relating to the payout of such awards. Consideration might also be given to tasking these duties to an impartial agency similar to the Auditor's office.

This measure proposes to prohibit the imposition of multiple penalties. Act 166, SLH 2009, established penalties of 20% of the: (1) portion of any underpayment for an understatement of a taxpayer's tax liability; and (2) excessive amount of the filing of a claim for refund or credit in the event of an erroneous claim for refund or credit. While it appears that multiple penalties for more than one violation of the underpayment provisions may be imposed under the state laws, federal laws prohibit the imposition of more than one penalty even though they are attributable to more than one violation. Adoption of this provision would allow taxpayers to mitigate their burden of an underpayment penalty similar to the federal treatment of a like infraction.

On the other hand, because the department of taxation does have the discretion to waive excessively high penalties, permitting the stacking of penalties for criminal offenses such as provided under HRS 231-36 (substantial understatement of income) and HRS 231-36.4 (wilful failure to pay and collect) may be an effective deterrent to other taxpayers who may intentionally attempt to avoid paying their tax obligations.

Finally, this proposal also attempts to require owners of transient accommodations to post their TAT registration number and post the registration number on any website containing advertisements and solicitation for the rental of a transient accommodation. No doubt this is to insure that a nonresident owner of a transient accommodation in Hawaii has registered the unit under the TAT and is fully aware that the TAT must be paid on the rental income.

Digested 3/30/12



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April 2, 2012

The Honorable Marcus R. Oshiro, Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: S.B. 2947, S.D.2, H.D.1, Relating To Taxation

HEARING: Monday, April 2, 2012, at 3:00 p.m.
AGENDA #2

Aloha Chair Oshiro, Vice Chair Lee, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR supports Section 6 of S.B. 2947, S.D.2, H.D.1, which requires all advertisements and solicitations for transient accommodations to display the registration identification number or the website address containing the registration identification number.

HAR understands the importance of ensuring that the State is able to collect the appropriate amount of taxes owed by nonresident property owners. HAR supports Section 6 of S.B. 2947, S.D.2, H.D.1, because we believe it will help the Department of Taxation (DoTax) with tax compliance by requiring owners to display their transient accommodation registration number in all advertisements and solicitations. This approach will help meet the objective of collecting taxes by: 1) requiring that property owners register with the DoTax for a registration number in order to display their numbers and 2) assisting DoTax with identifying unregistered property owners.

For the forgoing reasons, HAR supports the passage of Section 6 this measure.

Mahalo for the opportunity to testify.





April 1, 2012

RE: SB 2947 SB2 HD1 Proposed Amendment

HRS 237D-8.5 dictates that the rental operating acting as a third party rent collector submit a 1099 tax report on all rent collected to the Hawaii Department of Finance. Hawaii rental operators providing this protection to the State of Hawaii, should not be burdened or have their marketing operations adversely and significantly impacted by this proposed legislation when the intent of SB 2947 is to improve tax compliance from others not providing the State of Hawaii this premium protection.

The language problem contained within SB 2947 HD 2 can be easily corrected to resolve the issue cited above by the addition of the underlined clause below to advocated text of this Bill by amendment of the Senate Tourism Committee.

Unless the operator or plan manager collects rent as a third party in accordance with HRS 237D-8.5, the website address to a website containing the operator or plan managers registration identification number shall be displayed conspicuously in all advertisements and solicitations and on all operator - or plan manager-maintained websites regarding transient accommodations for which the registration is issued, unless ten or fewer registration identification numbers are to be listed, in which case the registration identification number shall be displayed conspicuously directly on the advertisement, solicitation, or website; provided that if the operator resides out-of-state or on another island from where the transient accommodations are located, contact information of an agent who resides on the island on which the transient accommodations are located shall be included."

With this clause addition by way of amendment, this is a good Bill, and worthy of the committee's passage. Without this clause addition, SB 2947 HD 2 is a bigger problem than the problem it seeks to address, and should not be passed by the House Finance committee.



April 1, 2012

RE: Testimony Commenting upon SB 2947 SB2 HD1

I am providing testimony commenting upon SB 2947 SB2 HD1.

SB 2947 is a Bill with good intent, but presently suffers from unintended consequences of its language. SB 2947 seeks to insure that Rent By Owner (RBO) internet web advertisers have the appropriate tax licenses and on-island agent to conduct rental operations in the State of Hawaii. It seeks to achieve this adherence to Hawaii law by having these individuals display this important information in any advertisement or solicitation.

The present Bill, SB 2947 SB2 HD1, has evolved to include rental operators whom are presently operating under Hawaii's TAT statute HRS 237D, protecting State TAT & GET revenues and collection. Many of these rental operators, operating in accordance with this TAT statute, have invested tens of thousands of dollars to create very sophisticated web sites which communicate information concerning their properties with other advertising partners also marketing their Hawaii rental properties for them.

The present wording of SB 2947 SB2 HD1 would have a large and adverse effect upon these rental companies, large and small, most of whom are here in Hawaii, and whom collect rent as a third party in accordance with HRS 237D-8.5. These firms would have to make significant changes to their company's websites, and forego their use of marketing partners since the additional information required for web advertisement by the present SB 2947 SB2 HD1 cannot be conveyed via the data links connecting their systems to these marketing partners as described by SB 2947 SB2 HD1.

HRS 237D-8.5 dictates that the rental operating acting as a third party rent collector submit a 1099 tax report on all rent collected to the Hawaii Department of Finance. Hawaii rental operators providing this protection to the State of Hawaii, should not be burdened or have their marketing operations adversely and significantly impacted by this proposed legislation when the intent of SB 2947 is to improve tax compliance from others not providing the State of Hawaii this premium protection.

The language problem contained within SB 2947 HD 2 can be easily corrected to resolve the issue cited above by the addition of the underlined clause below to advocated text of this Bill by amendment of the Senate Tourism Committee.

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With this clause addition by way of amendment, this is a good Bill, and worthy of the committee's passage. Without this clause addition, SB 2947 HD 2 is a bigger problem than the problem it seeks to address, and should not be passed by the House Finance committee.

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**HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012**

COMMITTEE ON FINANCE

**Hearing Date: April 2, 2012
Time: 3:00 PM
Testimony on SB 2947, SD2, HD 1
(Relating to Taxation)**

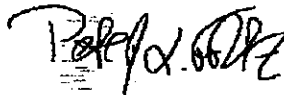
Chair Oshiro, Vice-Chair Lee, and members of the Committee, thank you for the opportunity to testify in **support of the intent of Section 3 through 5 of SB 2947, SD2, HD 1.**

This purpose Sections 3 through 5 of this bill is to incorporate certain language in Internal Revenue Code ("IRC") that prevents one penalty from stacking on top of another penalty into the analogous provisions in Hawaii law.

While I support the intent of Sections 3 through 5 of this bill, I recommend that the relevant language of HB 1695 SD 1 be inserted into Section 1. The language in HB 1695 SD 1 incorporates comments made by the Department of Taxation.

Thank you for the opportunity to testify.

Respectfully,



Peter L. Fritz

April 1st, 2012

Chair, Marcus R. Oshiro and Members
House Finance Committee
Hawaii State Legislature
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Oshiro and Committee Members:

My name is Adam Leamy. I am a Canadian citizen, residing in Victoria, British Columbia, Canada. I am writing in respect of the North American Free Trade Agreement (NAFTA) and SB2947 HD2, SD1 (and recent Hawaii State Legislature bills similar to it).

My interest in this bill, and recent bills like it, stems from my ownership of two properties on Maui; units 203 (purchased in 2008) and 208 (purchased in 2011) in Hale Kai O' Kihei. This is a 59-unit building located at 1310 Uluniu Road in Kihei, 96753, and is supported by a full-time, live-in Resident Manager. Both our apartments are cared for and attended to by Tips Maui, Inc., owned and operated by Mr. Ed Galvez, of Maui, Hawaii. My Hawaii Tax Identification Number is W87097056-01. My Internal Revenue Service Tax Identification Number is 98-0607258.

I am not alone in investing in United States real estate in order to establish and conduct enterprise there. I expect that there are many thousands of Canadians who have made and operate similar investments in Hawaii, Florida, California, the New England states and all other states and regions of the United States, providing legal guest accommodation in all manner of housing types and locations. In the same vein, there are likely many thousands of Americans who have invested in vacation and second properties in the provinces and regions of Canada, and through responsible management decisions, make them available to tourists visiting those locations.

It would seem to me that if individual citizens of Canada and the United States made such investments, and then found that state or provincial action applied greater operational standards and additional costs to them than it did to 'resident' investors engaged in the same enterprise, NAFTA would be discredited within both countries at its basic, grassroots level: By individual citizens who sought to pursue cross-border investment and enterprise through its provisions, only to see themselves the focus of targeted operational requirements and costs *after* the investments had been made.

It also seems likely that such individuals, encouraged by their governments to embrace NAFTA and seek opportunities under its provisions, would quickly turn to these same governments for action and resources to offset the additional costs imposed on them because of such governments' encouragement to embrace NAFTA, and the failure of the cross-border state or province to honour its provisions and protections.

It also seems to me that in these uncertain economic times, it is better to head off such problems so that people can focus their energies on making investments and creating and operating enterprise. This does not seem to be a good time for any of us to be distracted from the fundamentals our business investments and our operation of them.

And that is why in writing to you I am again writing to others, by email or by fax as appropriate, to seek their efforts in providing helpful input to Hawaii State Legislature on bill SB2947 HD2, SD1. It is my hope that they may be able to assist in ensuring SB2947 HD2, SD1 and bills similar to it achieve

State of Hawaii objectives while honouring and upholding the provisions and promise of NAFTA, as committed to by the United States, Mexico, and Canada. These individuals are:

- All Members of Parliament (MP) from BC and Alberta, Canada (whose constituents, be they American and or Canadian, might own investment property in Hawaii and the other States)
- All Senators from BC and Alberta, Canada (for the same reason as writing to MPs)
- All other MPs in Canada (in respect of the 'creep' of SB2947 HD2, SD1 to other States where their constituents may have rental vacation properties and expect NAFTA protections to prevail)
- The Hon. John Baird, MP, Minister of Foreign Affairs, Ottawa, Canada
- The Hon. Ed Fast, Minister of International Trade, Ottawa, Canada
- The Hon. Diane Ablonczy, MP, Minister of State of Foreign Affairs, Ottawa, Canada
- Ambassador Ron Kirk, U.S. Trade Representative, Washington, DC
- The Hon. Max Baucus, Chairman, Senate Committee on Finance, Washington, DC
- The Hon. Orrin G. Hatch, Ranking Member, Senate Committee on Finance, Washington, DC
- The Hon. Dave Camp, Chairman, House Committee on Ways & Means, Washington, DC
- The Hon. Sander Levin, Ranking Member, House Committee on Ways & Means, Wash., DC
- Sen. Ron Wyden (OR), Chairman, Subctte. Int'l Trade, Customs, and Global Comp., Wash. DC
- Ambassador Gary Doer, Canadian Ambassador to the United States, Washington, DC
- Ambassador David Jacobson, United States Ambassador to Canada, Ottawa, Canada
- Consul General Cassie Doyle, Consul General of Canada in San Francisco (resp. for Hawaii)
- Perrin Beatty, President and CEO, the Canadian Chamber of Commerce, Ottawa, Canada

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

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

I make each of my properties available to vacationers to Hawaii through Vacation Rentals By Owner, where they are listed under www.vrbo.com/241190 and www.vrbo.com/357582. I make all my own bookings. My bookkeeper provides invoice and supplementary guest-contact support in this regard, and ensures collection and remittance of the Hawaii Transient Accommodation Tax and the General Excise Tax. My accountant prepares my Canadian tax return for the Canada Revenue Agency. And an IRS-qualified and recognized accountant makes all required filings to the Internal Revenue Service per its requirements and the "United States — Canada Income Tax Convention," i.e., IRS form 1042 and Hawaii State Tax Form N-30. These are not inexpensive services, but in my view, they are what's required to operate responsibly and successfully.

On the Hawaii State Legislature webpage, SB2947 HD2, SD1 is identified as follows:

Measure Title: RELATING TO TAXATION.
 Report Title: Taxation; Whistleblower Awards; Administrative Appeals Officer; Transient Accommodations Tax; Tax Penalties

Description: Establishes monetary awards for whistleblowers for a Department of Taxation administrative or judicial action. Authorizes the Director of Taxation to appoint an administrative appeals officer. Prohibits certain penalties from being added to tax underpayments on which certain other penalties are already imposed. Requires all advertisements and solicitations for transient accommodations to display the registration identification number or the website address containing the registration identification number. Effective July 1, 2112. (SB2947 HD1)

From Page 12 (line 16) to Page 13 (Line 6) of SB2947 HD2, SD1, however, I note further language, as follows:

The website address to a website containing the operator or plan manager's registration identification number shall be displayed conspicuously in all advertisements and solicitations and on all operator- or plan manager-maintained websites regarding transient accommodations for which the registration is issued, unless ten or fewer registration identification numbers are to be listed, in which case the registration identification number shall be displayed conspicuously directly on the advertisement, solicitation, or website; provided that if the operator resides out-of-state or on another island from where the transient accommodations are located, contact information of an agent who resides on the island on which the transient accommodations are located shall be included." (Emphasis added.)

This and recent similar bills progressing through the Legislature make and apply to "nonresidents" management and operation standards and requirements from which 'residents' are exempted or are largely exempted. And it is this distinction that forms the basis of my uncertainty about SB2947 HD2, SD1: Are not Canadians who are investors in Hawaii and who have investments there to receive treatment no less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors and to investments of resident Hawaii investors?

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

I am not a legislator, a trade expert, or a NAFTA expert. Nor am I a government official possessed of, or with in-house access to, this level of expertise. I own a small business, and with my profits and personal savings, I have invested in these two properties in Hawaii. So when, in trying to come to terms with SB2947 HD2, SD1 and similar recent Hawaii State Legislature bills that hold provisions for "nonresidents" that do not apply to "residents," I turned to NAFTA, Chapter 11 (noting that "Party" means the United States, Mexico, and Canada):

NAFTA Article 1102: National Treatment

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

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

4. For greater certainty, no Party may:

- (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
- (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

I recognize that I may well be wrong in considering this NAFTA provision to be applicable to me, and to other Canadian citizens who have made cross-border investments in vacation accommodation properties in the United States, and who are unsure about SB2947 HD2, SD1. But on the chance that I am not, and other current or potential Canadian investors find themselves in a similar position and are unsure about this and other Hawaii bills, accurate information on the NAFTA national treatment front might help shape the deliberations and debate by the Hawaii State Legislature. That would be positive, and it is in this spirit that I am contributing.

I am asking, therefore, that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them — which in both cases will be far superior to mine — to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in SB2947 HD2, SD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.

I do hope that in considering the purpose and intent of this and similar bills — if the purpose and intent are honourable and aimed at ensuring lawful participation by all Hawaii property owners offering transient accommodation in support for the schools, hospitals, services and infrastructure that keep Hawaii running — careful thought is given to all good and hard-working Americans and Canadians who have invested in Hawaii and, through payment of taxes, are contributing to a strong and economically viable Hawaii.

As I said at the outset, I am a Canadian. I am proud to have a documented business that attracts and accommodates visitors to the state, and which supports the Hawaii and United States economies through purchases made there to ensure the amenities and services are in place to make our guests' stays exceptional. I know that my voice does not factor in Hawaii State Legislature considerations, but I would hope that commitments our two countries have made to each other — and indeed, expectations that we have of each other through trade treaties and tax conventions — do.

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

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

- Trade between the United States and Canada is huge and growing. Total trade between the two countries was worth \$676 billion in 2008 — more than one million dollars a minute.
- Canada is the top purchaser of U.S. exports, which was \$248.2 billion in 2010.

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

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

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

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

In respect of SB2947 HD2, SD1, if the intent is for guests to have someone responsible and accountable to turn to if there are on-site problems, or if they are to be notified of issues impacting their concerns or well-being, I believe that through my operational control of my units I am already addressing that circumstance. Indeed, as part of the detailed "Guest Welcome Letter" and supplemental information I provide to all my guests — I provide my cell (for calling and texting) and desk phone numbers and my email addresses, for contact purposes. As well, in both units, I provide free long-distance services through Hawaiian Telecom, in part so that guests can reach me without delay or cost.

More specifically, in materials I supply to guests before they depart their homes for Maui, and that I post clearly in each unit, on the refrigerators, I provide the following additional contact information:

KEY CONTACTS DURING YOUR STAY

If you have any questions or concerns, please don't hesitate to contact me first:

Adam Leamy, Owner
 Cell/Text: (250) my cell number/Desk: (250) my desk number
 Email: my email address

For unit 208 issues, i.e., cleanliness, plumbing, electrical, or other maintenance matters, the people to contact are:

Ed Galvez, TIPS Maui
 Cell/Text: (808) Mr. Galvez's cell number
 Email: Mr. Galvez's email address

For building issues, i.e., walkways, laundry, WiFi, parking lot, pool, grounds, or building security, the person to contact between 8am – 4pm is the on-site resident manager:

Mike Steiner, Resident Manager, Hale Kai O' Kihei
 Hale Kai O' Kihei Unit #: Mr. Steiner's apartment number
 HKOK Cell: (808) Mr. Steiner's cell number

In the almost four years since I purchased unit #203, and the nine months since I purchased #208, this Key Contact information, when it has been necessary, has worked flawlessly. Indeed, thanks to the Digital Age and all the innovation it embodies, distance decay has been greatly reduced; just last week, I was able to receive, courtesy of the County of Maui's website, immediate information on the Boil Water Advisory, and using the digital means available to me, reach my guests within minutes of the notice being sent out.

But if in SB2947 HD2, SD1, through the requirement "provided that if the operator resides out-of-state or on another island from where the transient accommodations are located, contact information of an agent who resides on the island on which the transient accommodations are located shall be included" there is an underling intent, or desire, to suggest or advance the premise that someone other than myself has, or should have control over the establishment, acquisition, expansion, management, conduct, and operation, and sale or other disposition of my properties in Hawaii, then I would again reference the provisions and protections afforded by NAFTA to Canadians who have made cross-border investments in the United States, and to Americans that have made cross-border investments in Canada, citing the United States Department of State, whose website (<http://www.state.gov/s/1/c3439.htm>) offers additional clarity on the matter:

Chapter Eleven of the North American Free Trade Agreement (the "NAFTA") contains provisions designed to protect cross-border investors and facilitate the settlement of investment disputes. For example, each NAFTA Party must accord investors from the other NAFTA Parties national (i.e. non-discriminatory) treatment and may not expropriate investments of those investors except in accordance with international law. Chapter Eleven permits an investor of one NAFTA Party to seek money damages for measures of one of the other NAFTA Parties that allegedly violate those and other provisions of Chapter Eleven.

Hawaii State Legislature bill SB2947 HD2, SD1 and others like it appear to be aimed at making sure that all who benefit from Hawaii and the United States contribute as required to keep Hawaii, and the United States running. We have precisely the same obligation where we live here in Victoria, in the Province of British Columbia, located in the country of Canada.

In these difficult economic times, it seems practical for any government to pursue tax scofflaws, law breakers, and free-riders whose choices not to participate in proper documentation, remittance, and compliance hurt us all. But to do so the manner of Hawaii State Legislature bill SB2947 HD2, SD1 would appear to contravene the obligations of the State as committed to by the United States in affixing its signature to NAFTA on behalf of the states. And in these difficult times, it seems an unhelpful thing to let stand any policy or legislative initiative which tells current investors that despite the intent, promise, and security of NAFTA, its provisions and protections are meaningless, and their investment in the United States is as risky as, or perhaps riskier than, an investment in a jurisdiction without a trade agreement.

I would hope that all who read this would provide input to Hawaii State Legislature bill SB2947 HD2, SD1 and others like it to ensure they achieve State objectives and achieve the commitments,

provisions, and promise of NAFTA. This bill, and others like it that have been written or Amended in the past month, would appear to fail the required standard of providing Canadian investors with “treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.”

So if NAFTA shaped these cross-border investments by individuals, or if it governs their treatment in either country, it seems to me that action by a state to impose a different standard of operation on real estate investments by Canadian owners not resident in the state — or by a province on real estate investments by Americans not resident in the province — undermines NAFTA and creates significant tax liabilities for governments in both countries. And this would be a terrible course of action for both our countries. It seems quite possible to me that if one state can advance legislation to change the rules of NAFTA to impose different standards and costs on Canadian investors, legislative creep could see other states do the same, and in time, Canadian provinces undertaking the same course to target Americans who own property in Canada. I think we owe each other better, but I concede that for all manner of governments, these are difficult and desperate times. Perhaps SB2947 HD2, SD1 correctly signals that the time for trade agreements has passed.

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

But I would request that if the Legislature were simply aiming to make all owners as responsible as those who are obeying all the tax and other laws, they might reach out to those of us with State of Hawaii Tax Identification Numbers and Internal Revenue Service Tax Identification Numbers so that we could work together to demonstrate progressive ways to enter into compliance and make filings and remittances that are essential to the services and programs and thus the security and prosperity of Hawaii and the United States.

We care, and we would help.

There are thousands of good and willing people amongst those who have the privilege of owning rental properties in Hawaii. I know they would work with the State to assist others to achieve the standard of responsibility. Even given my status as a foreigner, I would be willing to help. There are ways to secure the participation of those who are not in compliance with Hawaii and United States tax requirements without sapping the strength or support of those who are, and importantly — which I fear is the case with SB2947 HD2, SD1 — without disregarding the commitments and protections that give credibility, strength, force, and stature to NAFTA.

The benefit of owning vacation or ‘transient’ accommodation in Hawaii or in any state or province should not be limited to the owner, nor end with the purchase of the property by an owner. As so many law-abiding, tax-collecting, and -remitting owners have proven — be they American, Canadian, or of other nationality — that purchase can be and is the start of the flowing of benefits to all who call the location of the investment home, and choose to visit it, too.

I hope that’s a point upon which we can build and work together, and one that would see us do so while upholding responsibilities, protections, and commitments under NAFTA.

I wish you the best in your deliberations throughout this legislative session. I hope that you will use your expertise and resources, and seek and welcome same from others, to determine that such a

legislative standard as proposed by the Hawaii State Legislature in SB2947 HD2, SD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.

Sincerely,

Adam

Adam Leamy
773 Island Road
Victoria, BC V8S 2T8
Canada

Tel: 250-592-4778

Email: aleamy@northwestpublicaffairs.com

MARSHA VAUGHN
OPPOSE
SB 20147

From The Vancouver Sun – April 1, 2012

Hawaii wants to leave Canadians in the cold

By ADAM J. LEAMY, Special to the Sun April 1, 2012

Much has been written in these pages in The Vancouver Sun about Catalyst Paper and its battle to see the District of North Cowichan bring balance to its industrial tax rates. Now, with the company in creditor protection, little time to set the fundamentals right, and a recognition that jobs and benefits could be lost forever if they aren't, there has been much attention paid to the role of the North Cowichan council's tax intransigence in killing the goose that laid the golden egg.

North Cowichan council does not stand alone in demonstrating "me-first" policies that threaten all around it. The Hawaii state legislature has taken dead aim at NAFTA and the provisions it requires of the state, and the protections it affords Canadians who make cross-border investments in vacation rental properties.

Through digital communications and the Internet, owners of vacation rentals have been able to rent them out to Canadians and others seeking to visit the Aloha State, using websites they've created, and others they've joined, like Vacation Rentals By Owner. And no wonder: As the state reported last year, Canadians travel in party sizes of two or more, are more commonly repeat visitors, independent travellers, and stay in hotels and condominiums. Canadian vacationers get the accommodation they want, and the state reaps great benefit from its tourism export. The Hawaii Tourism Authority reports that, in December 2011 alone, visitor arrivals from Canada were the force in Hawaii tourism, spending close to \$1 billion.

But like the video store, the record store, and the landline home phone, Hawaii property rental companies have been hit hard by the digital age. Travellers are, for a host of reasons, deciding they'd prefer to rent directly from an owner, and the Internet makes this possible. In the face of this consumer choice, Hawaii property rental agencies and the realtors they employ had two choices: compete in the digital age, or find a fix that turned back the clock. And in pressing the turn-back-the-clock easy button, they found Hawaii state legislators happy to oblige.

Four bills are advancing through the Hawaii legislature that target off-island, i.e., Canadian, owners of vacation rental properties. Senate bills (SB2078, SB2089) and House bills (HB1706, HB1707) require off-island owners of vacation rental properties to turn over the management of their rental property to some form of on-island licensed real estate broker or salesperson, managing agent, rental agent, or condominium hotel operator. Curiously, local, on-island owners of vacation rental properties are exempted from the bills and their provisions.

Legislators say the measures ensure tax compliance, but the only evidence of non-compliance is anecdotal, and provided by the above-noted licensed real estate brokers or salespersons, managing agents, rental agents, or condominium hotel operators. The state has no data to suggest

this is the case, and in a classic case of “legislate first, get facts later,” says it will undertake to find out.

Legislators say the measures enhance consumer protection, but the only evidence on that front is again anecdotal, and again courtesy of the same group of usual suspects who stand to gain when the state grants them a monopoly to rent out all privately owned vacation condos.

And what a monopoly it will be. Testimony on these bills has revealed that the commissions Hawaii property management firms charge to properties under their “care” can be 30, 40, and 50 per cent, with all manner of hidden costs and property abuses. It’s hard to see how those commissions will decline, or how quality and service will increase once a state-legislated monopoly is in place.

An exemption has been proposed for “non-residents,” i.e., Canadian cross-border investors, but it has been so error-ridden, it beggars belief that it’s intended to be effective, or survive. Moreover, it would only be accessible to Canadian investors if they subscribed to some additional process that the state has yet to identify.

But such an exemption, for Canadians, is a non-starter anyway. The North American Free Trade Agreement (NAFTA) did away with all this, through the “national treatment” protection to cross-border investors. As NAFTA specifies, under Article 1102, “Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to its own investors, and investments of its own investors, with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.”

NAFTA goes even further: “The treatment accorded by a Party means, with respect to a state or province, treatment no less favourable than the most favourable 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.”

Since NAFTA came into force, all kinds of Canadians from every part of the country have made cross-border investments in the U.S. Some will be wealthy, some will have pensions. Some, like the writer, will view the investment as a part of his retirement planning. But directly or indirectly, all of us rely on the trade agreements and tax conventions that allow U.S.-Canada cross-border investments to be made with confidence. We also rely on our federal and provincial governments to abide by NAFTA provisions and, as important, to ensure these provisions and protections are honoured in the U.S.

Thousands of Canadians have made and operate similar investments in Hawaii, Florida, California, the New England states and all other states and regions of the United States, providing legal guest accommodation in all manner of housing types and locations. In the same vein, thousands of Americans have invested in vacation and second properties in the provinces and regions of Canada, and through responsible management decisions, make them available to tourists visiting those locations.

This is no time for free-trade welchers. If individual citizens of Canada and the United States made cross-border investments, only to see themselves the focus of targeted operational requirements and costs after the investment had been made, NAFTA would be discredited within both countries at its most basic, grassroots level. It is of no use to individual Canadians to have or support further trade agreements if the governments that negotiated them and that participate in them won't ensure that the provisions are being complied with, and their protections are being upheld for individual Canadians.

In the end, though, the Hawaii legislature has underscored the nature of the times we live in, when governments are desperate for revenue, and lack the capacity or concern to get their fundamentals right. In these times, it may well be that NAFTA and trade agreements like it just don't, or can't, work any more.

If desperate governments do desperate things to right a foundering ship, these Hawaii bills may bring the 'me-first' approach to other states and then to Canada and the provinces. After all, there are still voices here who, in recognizing that Canada is the single-greatest supplier of oil to the U.S. after U.S. domestic production, would enjoy dismantling NAFTA and the "national treatment" protection and charge Americans a much higher price for oil than Canadians pay. Never mind the supply of Canadian fresh water to water-deficient states.

It just seems a far more practical approach to head off such problems before they take root, and spread. Whether it's the Hawaii state legislature, the District of North Cowichan council, or anywhere else where policy gets put into action, the task of generating competitive and sustainable operations is not served by ignoring reality, or by trying to turn back the hands of the clock.

Adam J. Leamy, a partner in Northwest Public Affairs, a B.C.-based consulting firm, owns two investment properties on Maui.

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<http://www.vancouversun.com/business/Hawaii+wants+leave+Canadians+cold/6395019/story.html#ixzz1qtXa72aH>

Marsha Vaughn
Oppose
SB2947

Gail Baker Fairways Homeowner Big Island

Opposition to SB 2947 SD2 HD1

Aloha Honorable Members of the Senate Finance Committee;

I am for tax compliance as I am one who has been paying the tax from the day of my first renter. However, I oppose SB 2947 SD2 HD1 because of the lack of privacy regarding posting our GET/TAT license number on all advertisements. Anyone can obtain your personal contact information from the public Tax Department License Checking page: <https://dotax.ehawaii.gov/tls/app>. Others could fraudulently use my ID in their advertisements so they look compliant. This would make things more complicated than they are now.

I oppose the on-island contact information being displayed in advertisements for privacy reasons. I feel this is a safety issue for the guest staying in the transient accommodation. Since the on-island contact information would be public and available to anyone who sees the advertisement anyone with malicious intent could present themselves at the front door and introduce themselves using the on-island contact's name. Since the guest has never seen the person before, anyone could pretend to be that person and gain access to the accommodation. This seriously compromises the safety of guests. This would also be very confusing for potential renters as to whom they should call to inquire about the rental. My on island contact should not be bothered regarding bookings and she would not have the knowledge to answer the questions. The "local agent" should be changed to "local contact" as it should not be required to use a real estate agent or rental management company for emergency situations when they know nothing about the property. Additionally, the renters should be the only ones to have the local contact information for emergency situations which should be included with the Rental Information Packet emailed to them prior to their arrival.

It seems that the original intent of this bill was to get off island renters to use real estate management companies to rent their units so that there would be better accountability for the payment of the taxes. From the past testimony this does not seem to be an approach that is constitutional. **Therefore, I think it is more important to get the proper information to the homeowners as to what needs to be followed to be compliant.** Throughout the past couple of weeks it is clear that many people are unaware that they are supposed to file Hawaii State Income Tax and that the cleaning fee should be taxed. It is still unclear in all the blogs whether the cleaning fee should just get the GET or TAT or both. This information could be sent with the property tax bills and also could be something that the Title Companies would have to provide for new sales. **Compliance comes with the proper knowledge not these confusing laws such as posting ID's and local agents in advertisements.**

Respectfully,

Gail Baker

As owners of a vacation rental property in Waikoloa Beach Resort on the Big Island, we OPPOSE SB 2947 SD2 HD1, Section 6, making it mandatory to post GET/TA license numbers and managers' personal contact information in ads.

Proponents say the idea of having a contact person on the island is so guests in emergencies can have an immediate response. This needs to be a direct line to a live person's 24-hour cell phone number, not an office with business hours. To post a contact person's name and cell phone number on worldwide Internet, is an extreme and dangerous invasion of privacy, subject to abuse. Alternatively, our guests have 3 contact numbers for emergencies, on rental agreements, on our directions, in our unit's Welcome Book and on inside wall.

We also have privacy concerns with posting GET/TAT numbers. With a GET/TAT license number anyone can obtain our personal contact information including our full names and home address from the public Tax Department License Checking page: <https://dotax.ehawaii.gov/tls/app>. We are also concerned that our GET/TAT numbers may be used fraudulently by others in their advertisements. (If they are willing to cheat on taxes, they are willing to steal our numbers to continue doing so.)

In addition, we are concerned that the words "agent who resides on the island" may mean a licensed real estate professional and prefer the term agent be replaced with "on-island local contact."

There are already laws requiring a contact person on island. There are laws requiring GE and TAT tax payments.

Our guests pay with credit cards as do the majority of the rentals managed out of state. Merchant credit card companies track and will report transactions on a 1099 sent to the tax department, who can easily cross-reference this. This promotes compliance with tax laws without further compliance cost to Hawaii.

The current laws are sufficient, just enforce them and do not add on more cumbersome laws that will do nothing to bring in more tax. We suggest the entire Section 6 relating to ID numbers be eliminated.

Thank you,

Kat and Derry Ryan
Hawaii Resort Rentals
#601 Waikoloa Colony Villas
Waikoloa Beach Resort
Big Island of Hawaii

Rental By Owner Awareness Association

WWW.RBOAA.ORG

110 Kaanapali Shores Pl., #1111

Lahaina, HI 96761

800-811-1467

March 31, 2012

The Honorable Marcus R. Oshiro, Chair
House Finance Committee
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: SB2947 SD1, HD1 - Opposition

HEARING: Monday, April 2, 2012, at 3:00 p.m.

Aloha Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

RBOAA strongly opposes SB2947 but believes this industry needs more thorough education to address problems caused by poorly managed establishments and to educate those who do choose to rent on their own to understand and comply with the laws and taxing authorities of Hawaii.

We believe in the intent of SB2947 HD1. In intent we mean that **all businesses should be paying their taxes and that EVERY visitor arriving on island should be given an on island contact in their rental contract and that the contact information should also be located in the rental.**

We would like the term of agent be defined as **anyone who has the authority to act on the behalf of the owner per the tenant and landlord code.** We also believe that supplying the contact information to the guest prior to arrival and also placed inside the accommodations should be sufficient for any problems that could arise.

In reference to displaying the GET/TAT number; **we feel that displaying the GET/TAT number poises a privacy issue** and will not address the perceived tax avoidance problem. The Senate Committee of Tourism concurs with the assessment in their committee report on March 23, 2012, HB2078 SD1 "Your Committee finds history has shown that regulating transient accommodations operations can be a difficult task. **However, your Committee is not convinced that the approach in this measure will provide the State with enhanced collection of transient accommodations tax revenues, and finds that this measure raises a number of privacy issues for owners of these transient accommodations."**

RBOAA believes that better education will contribute to greater tax compliance and consumer protection.

Thank you for the opportunity to offer these comments.

Respectfully submitted,

Alicia Hopkins, President
Rental By Owner Awareness Association

mark and marilyn Jackson

Oppose

SB2947

We have owned our Kapalua Golf Villa since 2004 and since 2011 have rented it via VRBO, having found that going through a local agent yielded only losses.

We collect and pay quarterly the TAT and GET. We don't have a problem with including our tax IDs in our VRBO listing, but have a concern that it may be used fraudulently by others.

We do have a major problem with any legislative requirement to employ a local Hawaii-resident agent to collect our rental income. We have had a really bad experience using a local agent, and the requirement to use such an agent would cause us and many other fellow non-Hawaii-resident owners to abandon offering our homes for rental, with consequent adverse effects on Hawaii revenue from TAT and GET, and a potential further decline in property values.

Dear Senators,

I am a nonresident Maui vacation rental owner who opposes SB2947.

I believe that the proposed intention of this bill, is to tackle the problem of TVR owners who do not pay their GET/TAT taxes.

I oppose the following provision:

The website address to a website containing the operator or plan manager's registration identification number shall be displayed conspicuously in all advertisements and solicitations and on all operator- or plan manager-maintained websites regarding transient accommodations for which the registration is issued, unless ten or fewer registration identification numbers are to be listed, in which case the registration identification number shall be displayed conspicuously directly on the advertisement, solicitation, or website; provided that if the operator resides out-of-state or on another island from where the transient accommodations are located, contact information of an agent who resides on the island on which the transient accommodations are located shall be included."

The above provision contains discriminatory requirements that favor resident owners over non resident owners for no specific or logical reason, and is therefore a violation of the Constitution and NAFTA. A public display of private information of an on island contact is a violation of the Hawaii Constitution which serves to protect Hawaiian residents privacy.

Ada Eschen

March 30th, 2012

Dear Legislators,

Thank you for the opportunity.

I oppose Bill SB2947.

I was a victim of identity theft. It took many months to resolve and was a complete nightmare to deal with during the time. Since then I'm vigilant about protecting my personal information. The bill proposes that I put my registration id number on all public ads. I fear that someone out there with malicious intent will use the information to harm the renters or me. I do not have a problem communicating my registration id number to the renters. Unless the Department of Taxation is willing to compensate for personal or monetary losses please do not pass this bill.

Thank you.

Sincerely,

Li Youn

Maui Vacation Rental Condo Owner

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Linda Mitchell
Organization: Individual
E-mail: Lindafinearts@gmail.com
Submitted on: 4/1/2012

I am opposed to SB 2947 because it is a repeat of items that do not seem necessary or right. Why do these items keep recurring? Will bills just keep being altered to include discrimination against non-resident owners of transient rentals? How many more letters do we need to write to oppose the same things?

As a non-resident owner of rental property on Maui, I do not wish to have laws imposed on me that are not the same for all owners.

I do not see the necessity of listing a contact person for my rentals in an advertisement for the rental. That can only cause confusion to the prospective guests. The contact information is certainly not needed until the guest has agreed to rent the property. I have on-island contact people who would not want their contact information listed on advertisements. They are happy to be the "go-to" person if there is a problem (which I might add, there rarely is). However, I am grateful for their service when it is needed. I don't wish to impose on their privacy to the general public who does not choose our property. And to state it one more time, it is not fair to only ask non-residents to make this listing on advertisements. I wonder what difference the contact person's private information has to do with taxation.

I do not wish to have an ID number displayed on ads that would divulge my personal information. The reasons for that should be self-evident.

Thank you for the opportunity to testify. I am hoping that reason will prevail, and my rights will not be different than Hawaii residents' rights.

We are a non-resident owner of a condominium on the Big Island. We have owned the property since 2004 and it has been rented as a vacation rental (transient accommodation) since it was acquired.

Bill SB 2947 HD2 SD1 would impose requirements on us to provide the confidential information of our representative on the Big Island on our web page and provide our confidential tax ID on the internet.

We oppose the recent amendment to SB 2947 HD2 SD1, which appears to have been inserted in this proposed legislation because it's has been deemed unacceptable in other bills currently before the Hawaiian Legislature and advocates of these proposals are now attempting to insert them in SB 2947 HD2 SD1.

Tax compliant owners of transient accommodation in Hawaii are already issued a Tax ID by the Department of Taxation. Forcing law abiding owners of transient accommodation to display their confidential tax ID so that the State can insure the payment of tax is illogical.

Presumably the parties who will be forced to display their confidential tax ID (so it may be copied without consent and used fraudulently) are already fully compliant otherwise they would not have an existing tax ID. If there is a concern that registered parties are not compliant then the Department of Taxation needs to conduct audits of those suspected tax truants.

The amendment to SB 2947 HD2 SD1 also requires that the contact information of an "on island representative" be posted in an advertisement or on a website advertising transient accommodation. This requirement raises very serious privacy issues. If a party has not entered into a rental agreement with an owner of transient accommodation they should not be provided the confidential information of any employees or contractors of the owner of transient accommodation. The drafters of this provision have not given adequate consideration to the privacy issues raised by this amendment.

Proponents of this amendment to SB 2947 HD2 SD1 continue to make unfounded assertions about a potential tax loss to the State of Hawaii as a result of non payment of taxes by non-resident owners of property. As a result they continue to attempt to find ways to fix a problem which they have yet to show exists. This proposed amendment being the most recent of many.

The proposed amendment to this bill does not deal with the perceived problem of non compliance with tax legislation by both resident and non-resident owners of transient accommodation in the State of Hawaii and should be given no further consideration.

Thank You
James Long
Timberline Land Co. HI, LLC

MARSHA VAUGHN, LSCW

2513 San Mateo Street
Richmond, CA 94804
(510) 526-1994
(510) 206-4619 cell

House Committee on Finance
Hawaii State Representatives
March 30, 2012

Re: SB2947 SD2 HD1

Dear Committee Members,

Thank you for the opportunity to provide testimony. I have a mixed opinion of this bill. The first three clauses of this bill seem like a good idea. However, I strongly OPPOSE SB2947 SD2 HD1 for the following reasons:

The currently amended bill reads:

- (4) Requires all advertisements and solicitations for transient accommodations and all operator- or plan manager-maintained websites regarding transient accommodations to display the registration identification number or a website address to a website containing the number; and

If you mean that we must broadcast our Hawaii Tax Identification numbers on public advertising sites, this could result in some form of identity theft unless you can guarantee that all internet searches on a Hawaiian Tax Identification number do NOT pull up all of the personal information for the owner of the ID number. This could be extremely dangerous.

- (5) Requires operators of transient accommodations who reside out-of-state or on an island other than the one on which the transient accommodations are located to include contact information for an agent who resides on the island on which the transient accommodations are located.

This is actually the most troublesome part of this bill. This is a violation of the privacy of a local contact who may be more than willing to provide assistance and support to guests while they are on the island. If their contact information is provided on a website, however, it could be confusing to potential renters, who may call to book units or ask general questions about travel (as they do directly to owners now). It also is discriminatory against off-island owners, which I believe is unconstitutional and certainly bad business.

A five minute search on the internet provided me with four properties that I am certain are not tax-paying legal businesses. How could I tell? They list neither their rates nor the tax amount they must collect. The whistleblower section of this bill alone could provide you with the information you need to find who is evading their taxes.

I thank you for your time and service and pray that you will reconsider these two sections of this bill

Sincerely,

Marsha Vaughn

Condo Owner, Kihei, HI

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 8:20 PM
To: FINTestimony
Cc: carabirk@gmail.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Cara Birkholz
Organization: Individual
E-mail: carabirk@gmail.com
Submitted on: 4/1/2012

Comments:

I am a resident of Maui and own four vacation rental condos on our beautiful island which I rent out/manage myself.

I oppose two small portions of this bill. 1. the part requiring transient accommodation owners to post their tax numbers on their advertisements. With identity theft rampant these days, I have very real privacy concerns relating to this. However, I have no problem whatsoever in furnishing the tax department links to all my advertisements.

2. requiring non-resident owners to have list their on-island representative contact information in the advertisement. This will simply cause confusion for would-be guests as they contact the representative for booking information (which he obviously wouldn't have). It is my understanding, once a guest books, the non-resident owner provides the guest with the on-island representative's contact information for emergency purposes.

mahalo!

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 7:04 PM
To: FINTestimony
Cc: KiheiAkahi_Palekaiko@shaw.ca
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith and Della Halvorson
Organization: Individual
E-mail: KiheiAkahi_Palekaiko@shaw.ca
Submitted on: 4/1/2012

Comments:

We respectfully request that you remove Section 6: Section 2370-4 of SB2947 SD2 HD1.

We are non-resident owners of a vacation rental property in a condominium complex zoned/approved for short-term rentals.

It is clear that with the recent introduction of bills HB1706, HB1707, SB2089, SB2078, the goal is to increase tax compliance among the vacation rentals by owner segment. We wholeheartedly support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws, however, the inclusion of SECTION 6. Section 2370-4 of SB2947 SD2 HD1 is NOT the answer!

We understand that the State is also concerned with consumer protection. However, you are putting all transient accommodations owners at risk! Identity theft is a very real issue and a requirement to display of our tax ID number on all advertising is a huge concern. I have already found my listing on two or three other sites that I do not advertise!

By mandating the inclusion of on-island representative information on our website, you are jeopardizing their privacy as well! Guests do NOT require the name of our on-island representative until they have completed their booking or just prior to their departure, and then again once they are in our suite.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands.

We respectfully request you REMOVE Section 6: Section 2370-4 - SB2947 SD2 HD1.

Mahalo for considering our testimony,

Keith and Della Halvorson

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 5:25 PM
To: FINTestimony
Cc: nealhalstead@yahoo.ca
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Neal Halstead
Organization: Individual
E-mail: nealhalstead@yahoo.ca
Submitted on: 4/1/2012

Comments:

Aloha

Regrettably, I must write to oppose SB2947 on the following grounds.

1. Posting my tax identification numbers on my website exposes me to the risk of identity theft.
2. An owner of a transient rental accommodation who is not registered for GET and TAT could simply copy my identification number and use it on their website, thereby invalidating the check and balance this bill is attempting to create.
3. Having a different procedure for those who have 10 or more units than for those who have 10 or less units does not make sense - nor is it equitable.
4. Requiring me to post my on-island representative's contact information on my website is an invasion of their privacy. Their contact information is only required by guests who have entered into a rental contract with me and the property manager of my condo complex.
5. Requiring me to post my on-island representative's contact information will require me to change my business model. My on island representative is not my "face to my guests". I, as owner of the condo, am the face to my guests. My on-island representative is there in case required and does not handle rental or other inquiries.

I am respectful of your ultimate goals here to ferret out owners who are not abiding by the laws currently in place, however, this bill simply serves to penalize those of us who are currently abiding by the law and will do little, if anything at all, to resolve the issue you are trying to deal with.

Please defer this bill and give us, the owners (on-island and off-island) of transient rental accommodations an opportunity to work constructively with you to help resolve the issues you are facing. We would be happy to do that.

Mahalo for your time and consideration

Neal Halstead
162 Patrick View SW
Calgary, AB

FINTestimony

From: mailinglist@capitol.hawaii.gov
Date: Sunday, April 01, 2012 5:13 PM
To: FINTestimony
Cc: sandiboswell@gmail.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sandra Boswell
Organization: Individual
E-mail: sandiboswell@gmail.com
Submitted on: 4/1/2012

Comments:

Dear Honorable FIN members,

As a legal non-resident tax payer who has long owned a successful and cherished Hawaiian vacation rental (with many satisfied rental guests) please consider my SB2947 opposition. The public posting of tax ID numbers and island contact numbers in world-wide public ads cause more problems than they solve. Other state legislative committees recognized problems and deferred the proposals. Please adopt reasonable effective solutions.

SB2947 proposes posting numbers but fails to effectively solve the problem of tax avoidance and puts many people at risk of harm and confusion. I know that is not your intent. I appreciate your reading my comments.

First, the federal privacy laws protect against forced exposure of personal information. The potential abuse with ID numbers is very problematic, even dangerous in the world-wide web, where crime is on the increase. As a heads up to potential rental guests, in my ads I post: "This is a legal licensed rental" which is safer, but I would not post a tax ID number.

Secondly, a dishonest person can easily lift and use ID numbers—or any number; this they would prefer, rather than using a name since people will NOT know the number is not theirs. Renters can quickly spot a conflict in names of property owners as a transaction progresses, whereas they wouldn't distinguish differences with numbers. Such number abuse is obviously easier than identity theft, which is also a huge concern with this proposal.

Here's a real-life example: In my mainland state, although numbers were not in ads, problems occurred a few years ago when unscrupulous persons somehow obtained business license numbers, dishonestly used the numbers in transactions, and that cost innocent business owners much time and confusion in trying to clear their name with the tax department who came looking for assumed owed taxes on goods purchased by those who dishonestly used their numbers...a headache for all involved, except the dishonest people who were long gone.

Posting is unnecessary for tax collection reasons because the tax department need only cross reference names in popular rental ads, many of which also list owner's state addresses and phone numbers. With today's technology, the tax department has quick and easy means of discovery in whether or not taxes are being paid. They can (and should) pursue those—both on land and off-- who aren't in their tax payer records. Targeting one group unfairly while favoring another is wrong.

Additional assistance and information for tax collection also comes via Hawaii's county zoning and property use classifications.

stly, the posting of a local contact number in an advertisement puts the cart before the horse and serves no useful early notice purpose. Multiple numbers in ads confuse potential renters about who to call for their rental reservation. I agree and comply with providing an island contact number, but that number properly belongs in information given the renter after the completed reservation transaction, not before.

Thank your regarding my objections.

Respectfully yours

Sandra Boswell 4400 Makena Rd, Wailea-Makena, 96753 (808-874-1383 and 509-782-112)

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 02, 2012 5:27 AM
To: FINTestimony
Cc: s1keithw@yahoo.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith West
Organization: Individual
E-mail: s1keithw@yahoo.com
Submitted on: 4/2/2012

Comments:

I believe in the intent of SB2947 HD1. In intent we mean that all business should be paying their taxes and that EVERY visitor arriving on island should be given an on island contact in their rental contract and that the contact should also be located in the rental.

I would like the term of agent be defined as anyone who has the authority to act on the half of the owner per the tenant and landlord code. We also believe that supplying the contact information to the guest prior to arrival and also placed inside the accommodations should be sufficient for any problems that could arise.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 02, 2012 6:10 AM
To: FINTestimony
Cc: frogndoos@att.net
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lindsay Hughes
Organization: Individual
E-mail: frogndoos@att.net
Submitted on: 4/2/2012

Comments:

We respectfully request that you remove Section 6: Section 2370-4 of SB2947 SD2 HD1.

We are non-resident owners of a vacation rental property in a condominium complex licensed/approved for short-term rentals.

It is clear that with the recent introduction of bills HB1706, HB1707, SB2089, SB2078, the goal is to increase tax compliance among the vacation rentals by owner segment. We wholeheartedly support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws, however, the inclusion of SECTION 6. Section 2370-4 of SB2947 SD2 HD1 is NOT the answer!

We understand that the State is also concerned with consumer protection. However, you are putting all transient accommodations owners at risk! Identity theft is a very real issue and a requirement to display of our tax ID number on all advertising is a huge concern. I have already found my listing on two or three other sites that I do not advertise!

By mandating the inclusion of on-island representative information on our website, you are jeopardizing their privacy as well! Guests do NOT require the name of our on-island representative until they have completed their booking or just prior to their departure, and then again once they are in our suite.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands.

We respectfully request you REMOVE Section 6: Section 2370-4 - SB2947 SD2 HD1.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 11:33 AM
To: FINTestimony
Cc: stoopse@gmail.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elen Stoops
Organization: Individual
E-mail: stoopse@gmail.com
Submitted on: 4/1/2012

Comments:

Dear Legislators,

Thank you for the opportunity to provide testimony on SB2947 SD2 HD1.

I support certain features yet oppose others therefore I OPPOSE this bill.

The two provisions that I find unacceptable are regarding posting two pieces of sensitive information on the internet that do not appear to serve a useful purpose in connection with the requirements of the Department of Taxation. Further, if they are useful, for some reason not apparent to me, it is ever more difficult to understand why they would be useful only for an advertisement placed by an owner that lives off island and not useful for an advertisement placed by an owner that lives on the same island. It is quite confusing to me and after much contemplation I can not determine how this distinction is either appropriate or of service to the state, the property owners or the Department of Taxation. I respectfully ask the legislators to please provide a full accounting for this distinction.

The proposal that an ID, but not my Taxpayer ID, is on either the advertisement or the website for the use by Department of Taxation tracking and auditing is acceptable.

For consumer protection reasons, where I, the owner is a consumer, it is necessary that:

1) The ID is encoded in such a way that only a DOT-employee is able to use it to relate the ID to my personal information. For personal safety concerns I object to Hawaii's requiring me to have this type of information on the internet that while occasionally is convenient for the DOT it is otherwise broadly available for so many other wrongful purposes.

2) My [encoded] ID can be simply duplicated by a dishonest person for use in their own advertisement. Not only will this be a theft but if my number is viewed on another advertisement where it does not belong, the DOT may come to incorrect conclusions about my tax situation. That the DOT has no way to distinguish between an accurate and false use of the [encoded] ID could have many serious and unintended consequences.

For this reason, I propose that the DOT create an ID that can be tied to my tax ID yet my personal data can not be extracted by anyone other than a DOT employee to determine facts about me. To prevent counterfeit or fraudulent use of my ID by another person, the DOT needs to reconsider how this can be done and provide a new proposal.

This bill has a provision requiring operators of transient accommodations who reside out of state or on an island other than the one on which the transient accommodations are located to include contact information for an agent who resides on the island on which the transient accommodations are located. Further provides and distinguishes that if the owner resides out of state, then this information must be included on their website.

It continues to be greatly concerning to me that the legislators continue to disregard, since this is a reappearance of exactly the same language that was ruled by another set of legislators as inappropriate and resultingly deferred, the fact that with respect to putting emphasis on the guest, then that guest should have the same type of requirement from an owner, or an owner's advertisement, regardless of whether the owner that holds title to the subject rental property also has a personal residence on the same island. The guest does not care whether for tax purposes or for consumer protection purposes that the owner is a resident of the island or a resident on another island or on the mainland.

Equally, the tax department should not care for tax purposes whether the owner is resident or non-resident. What is the underlying issue? I can not see it. Please articulate it, we are trying to understand. You leave us with the impression that there is an agenda you do not wish to reveal since we have otherwise not received answers to our questions.

Aside from the unexplained and likely unconstitutional provision of once again creating a different standard and level of performance for an individual relative to their resident ownership status, there are other reasons why putting the name and telephone number of the local contact on the internet advertisement do not make sense and Rep. Brower as the Chairman of the TOU committee agreed. Here are, once again, the specifics that make this provision unnecessary and potentially harmful to the owner and citizens of Hawaii.

1. Listing a local contact in an ad or web site is confusing to prospective renters who may attempt to contact them in error before they have even committed to renting the accommodations.

2. It violates the privacy of the local contact. There is a provision in the Hawaii Constitution specifically regarding the state's obligation to protect the privacy of its citizens.

3. It does not seem to serve any useful purpose. If it does provide a useful purpose, then it should apply equally to all owners of properties regardless of their residency as it would not seem to be any less useful to provide a guest with local contact information depending on where the owner of subject property resides. Additionally, it would not be factual to state that the owner who resides on island is in fact the local contact. The on-island owner may, for whatever reason, not have the capacity or the intention to act as the local contact. Therefore, it is necessary for all owners of vacation rentals to abide by the same rules.

The guest deserves consistent treatment and all owners deserve consistent treatment.

5. There is no apparent relation between taxation and tax enforcement efforts and the name and phone number of a local contact placed on an internet ad.

6. Local contact information should be and is provided to the guest at the time the payment of their reservation is completed and additionally is located in a prominent location inside of the rental property. It is highly unlikely that a guest would go to the internet to try and find the local contact information.

Thank you for the opportunity to provide testimony.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Int: Sunday, April 01, 2012 4:25 PM
To: FINTestimony
Cc: mkohler@avec.org
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Meera
Organization: Individual
E-mail: mkohler@avec.org
Submitted on: 4/1/2012

Comments:

Honorable members of the House Finance Committee:

My sincerest apologies for the late submission of this testimony, but I ask you respectfully to amend this bill to delete the requirement that contact information for an on-island agent be included in advertisements for Transient Vacation Rental units that are owned by off-island owners.

Advertisements are viewed by thousands of only mildly interested travelers, which result in a few hundred inquiries and a few dozen contracts to stay. Owners deal directly with prospective guests to make all arrangements. Posting contact information for a local contact will only confuse the relationship between owner and guest.

We are required by our AOA0 to provide on-island contact information to the Association and it is provided to them and to all guests. If the Department of Taxation wishes to also be notified of an on-island contact, that is certainly doable, but it is clearly redundant, unnecessary and potentially harmful to be included in advertising.

Mahalo for the opportunity to testify.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Date: Sunday, April 01, 2012 4:35 PM
To: FINTestimony
Cc: geohumphrey@yahoo.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Christopher Humphrey
Organization: Individual
E-mail: geohumphrey@yahoo.com
Submitted on: 4/1/2012

Comments:

I am very concerned with the requirement of having the registration identification number of operators and/or owners, and contact information of agents, displayed on all advertisements. This would increase the possibility of identity theft. Requiring identification numbers and contact information on the internet for the entire world to see and use is a violation of the operator's, owner's and agent's personal privacy. In addition, the State of Hawaii can not regulate what is or is not on advertisements, this is a 1st Amendment issue. Especially since most of these advertisements are on national or international web sites, and directed towards people who live outside the State of Hawaii. This would also be an interstate commerce issue.

FINTestimony

m: mailinglist@capitol.hawaii.gov
nt: Sunday, April 01, 2012 11:32 AM
To: FINTestimony
Cc: stoopse@gmail.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elen Stoops
Organization: Individual
E-mail: stoopse@gmail.com
Submitted on: 4/1/2012

Comments:

Dear Legislators,

Thank you for the opportunity to provide testimony on SB2947 SD2 HD1.

I support certain features yet oppose others therefore I OPPOSE this bill.

The two provisions that I find unacceptable are regarding posting two pieces of sensitive information on the internet that do not appear to serve a useful purpose in connection with the requirements of the Department of Taxation. Further, if they are useful, for some reason not apparent to me, it is ever more difficult to understand why they would be useful only for an advertisement placed by an owner that lives off island and not useful for an advertisement placed by an owner that lives on the same island. It is quite confusing to me and after much contemplation I can not determine how this distinction is either appropriate or of service to the state, the property owners or the Department of Taxation. I respectfully ask the legislators to please provide a full accounting for this distinction.

The proposal that an ID, but not my Taxpayer ID, is on either the advertisement or the website for the use by Department of Taxation tracking and auditing is acceptable.

For consumer protection reasons, where I, the owner is a consumer, it is necessary that:

The ID is encoded in such a way that only a DOT-employee is able to use it to relate the to my personal information. For personal safety concerns I object to Hawaii's requiring me to have this type of information on the internet that while occasionally is convenient for the DOT it is otherwise broadly available for so many other wrongful purposes.

2) My [encoded] ID can be simply duplicated by a dishonest person for use in their own advertisement. Not only will this be a theft but if my number is viewed on another advertisement where it does not belong, the DOT may come to incorrect conclusions about my tax situation. That the DOT has no way to distinguish between an accurate and false use of the [encoded] ID could have many serious and unintended consequences.

For this reason, I propose that the DOT create an ID that can be tied to my tax ID yet my personal data can not be extracted by anyone other than a DOT employee to determine facts about me. To prevent counterfeit or fraudulent use of my ID by another person, the DOT needs to reconsider how this can be done and provide a new proposal.

This bill has a provision requiring operators of transient accommodations who reside out of state or on an island other than the one on which the transient accommodations are located to include contact information for an agent who resides on the island on which the transient accommodations are located. Further provides and distinguishes that if the owner resides out of state, then this information must be included on their website.

It continues to be greatly concerning to me that the legislators continue to disregard, since this is a reappearance of exactly the same language that was ruled by another set of legislators as inappropriate and resultingly deferred, the fact that with respect to putting emphasis on the guest, then that guest should have the same type of requirement from an owner, or an owner's advertisement, regardless of whether the owner that holds title to the subject rental property also has a personal residence on the same island. The guest does not care whether for tax purposes or for consumer protection purposes that the owner is a resident of the island or a resident on another island or on the mainland.

Equally, the tax department should not care for tax purposes whether the owner is resident or non-resident. What is the underlying issue? I can not see it. Please articulate it, we are trying to understand. You leave us with the impression that there is an agenda you do not wish to reveal since we have otherwise not received answers to our questions.

Aside from the unexplained and likely unconstitutional provision of once again creating a different standard and level of performance for an individual relative to their resident ownership status, there are other reasons why putting the name and telephone number of the local contact on the internet advertisement do not make sense and Rep. Brower as the Chairman of the TOU committee agreed. Here are, once again, the specifics that make this provision unnecessary and potentially harmful to the owner and citizens of Hawaii.

1. Listing a local contact in an ad or web site is confusing to prospective renters who may attempt to contact them in error before they have even committed to renting the accommodations.

2. It violates the privacy of the local contact. There is a provision in the Hawaii Constitution specifically regarding the state's obligation to protect the privacy of its citizens.

It does not seem to serve any useful purpose. If it does provide a useful purpose, then it should apply equally to all owners of properties regardless of their residency as it would not seem to be any less useful to provide a guest with local contact information depending on where the owner of subject property resides. Additionally, it would not be factual to state that the owner who resides on island is in fact the local contact. The on-island owner may, for whatever reason, not have the capacity or the intention to act as the local contact. Therefore, it is necessary for all owners of vacation rentals to abide by the same rules.

The guest deserves consistent treatment and all owners deserve consistent treatment.

5. There is no apparent relation between taxation and tax enforcement efforts and the name and phone number of a local contact placed on an internet ad.

6. Local contact information should be and is provided to the guest at the time the payment of their reservation is completed and additionally is located in a prominent location inside of the rental property. It is highly unlikely that a guest would go to the internet to try and find the local contact information.

Thank you for the opportunity to provide testimony.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 4:47 PM
To: FINTestimony
Cc: purpletania@yahoo.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Tania Humphrey
Organization: Individual
E-mail: purpletania@yahoo.com
Submitted on: 4/1/2012

Comments:

Hawaii cannot regulate the content of advertisements outside the state lines, and likely inside the state lines. This is freedom of speech. The advertisements you are trying to regulate are clearly intended for people who live outside the state of Hawaii. The state does not have jurisdiction to regulate these ads, or require what's displayed in these ads. You can, however, require all operators or owners to provide this information in the contract provided to guests. This would be a better method to ensure this information is properly presented. Also, requiring personal information, like ID numbers and contact information, to be displayed in an open web site, can lead to identity theft, and is a privacy issue.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Date: Sunday, April 01, 2012 4:46 PM
To: FINTestimony
Cc: bonnie@mauiownercondos.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie Pauli
Organization: South Maui Condos Owner Direct Rental Network
E-mail: bonnie@mauiownercondos.com
Submitted on: 4/1/2012

Comments:

Once again portions of a bill that was deferred in an earlier reading has been added to a bill that does not really seem to relate to it. As the owner of a legal vacation rental and manager of an online directory advertising other South Maui by owner legal rentals I have no problem supporting the intent of most of this bill (by my reading that is to help the State and renters see easily who a tax cheat might be) but I don't believe this bill will accomplish these things with regard to the addition of TVR off island owners and thus write in opposition.

.. in this modern world - especially with Internet ads - there is really no practical way an operator can be held accountable for every ad for a property.

Are you aware that listings can easily be hijacked from legitimate ads and then reproduced on a new site or even Craig's list with different contact names and phone numbers. There are current 78 pages of Maui listings that have been hijacked just this week on 1 new site on the Internet... In other cases where condo operators (ie both owners and management and booking companies) have decided not to renew listings, the listings are left visible to help the directory look well stocked for years after the condo operator has asked the listing be removed. There is no way to login, update information or add information.

I am afraid that as in most small businesses this industry has long required the renter to be responsible to determine what is a legitimate rental and what is not. It is relatively easy for them (and I would assume the State) to use the various counties online websites to see who the owner of a particular piece of property is.

2. This bill adds additional layers of time and paper work and cost (the space required for an ad is valuable real estate - both financially and in the ability to get a message across) to the ad process.

The State is putting undue hardship on one class of 'operator' - off-island owners who are using their legal right to rent their own properties but do not reside on the same island as their property.

REMOVE THE SECTION requiring the name and contact information of a local rental agent in an ad.

We as owners are allowed to act as our own rental agent and are already required by the Landlord Tenant Code HRS 521-43(f) to make the name of our on island 'agent' available to the tenant. The intent of this HRS is to insure someone responsible on island is available to help with client needs or community needs should the client cause problems. Why is this additional layer necessary? It can only be confusing if the 'agent' is not also the rental contact.

4. Laws already exist governing reporting of GET and TAT. Compliance is seen as a large problem by some. In their testimony on SB2089, the Department of Taxation noted the difficulties with finding and monitoring tax cheats. I fail to see how this bill will help in that process. The cheaters will continue to cheat and those of us who respect and follow the law already are further penalized.

Servicing our renter clients and insuring a comfortable stay is the only way a business will survive. Any operator who is not providing these services will not stay in business long. Putting the best possible face of Aloha on our contacts with tourists is essential and right now owner rentals are doing a good job.

I believe the State would be more effective in achieving the intent of this bill if they were to:

1. Require all advertising mediums advertising rentals in Hawaii to collect a tax id number as part of each listing's information or else not allow the listing. It would not be displayed on the listing but a list of the tax id numbers and the address of each unit (already collected by listing sites and in some cases not displayed) and contact info for an on island agent when an owner is not on island. This information could be required to be supplied to Hawaii on a yearly basis. The State would have the info needed to track tax cheats (you can't get rentals without advertising) and renters would know the rentals listed are all registered to pay proper taxes on the property. Finally, owners and their agents would have confidential information protected.

2. Institute an educational campaign to alert Advertising mediums (papers, magazines, Internet Directories) and the Public as to what 'legal' rentals are and how to determine if they are considering renting one.. ie provide county websites urls for checking ownership, List of 'legal' operators (ie owners, management companies, rental agents etc., request the tax ID, or name of on island contact)

It would not be difficult for online rental directories to add the ability to collect this information to their websites. I operate such a website and write code for it - it is very easy to do this.

Education and information at the source - prior to revenue would then allow access by the government to rental calendars as well.

FINTestimony

From: mailinglist@capitol.hawaii.gov
At: Sunday, April 01, 2012 2:50 PM
To: FINTestimony
Cc: pjswims@aol.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Pat Starkie
Organization: Individual
E-mail: pjswims@aol.com
Submitted on: 4/1/2012

Comments:

I AGREE 100% WITH Elen Stoops! Please read as she makes excellent points about what is not good about this legislation.

Dear Legislators,

Thank you for the opportunity to provide testimony on SB2947 SD2 HD1.

I support certain features yet oppose others therefore I OPPOSE this bill.

The two provisions that I find unacceptable are regarding posting two pieces of sensitive information on the internet that do not appear to serve a useful purpose in connection with the requirements of the Department of Taxation. Further, if they are useful, for some reason not apparent to me, it is ever more difficult to understand why they would be useful only for an advertisement placed by an owner that lives off island and not useful for an advertisement placed by an owner that lives on the same island. It is quite confusing to me and after much contemplation I can not determine how the legislators can argue successfully a logic behind the distinction. I respectfully ask the legislators to please provide a full accounting for this.

The proposal that an ID, but not my Taxpayer ID, is on either the advertisement or the website for the use by Department of Taxation tracking and auditing is acceptable.

For consumer protection reasons, where I, the owner is a consumer, it is necessary that:

1) The ID is encoded in such a way that only a DOT-employee is able to use it to relate the ID to my personal information. For personal safety concerns I object to Hawaii's requiring me have this type of information, in an unsecured form on the internet that while occasionally is convenient for the DOT it is otherwise broadly available for so many other wrongful purposes.

2) My [encoded] ID can be simply duplicated by a dishonest person for use in their own advertisement. Not only will this be a theft but if my number is viewed on another advertisement where it does not belong, the DOT may come to incorrect conclusions about my tax situation. That the DOT has no way to distinguish between an accurate and false use of the [encoded] ID could have many serious and unintended consequences.

For this reason, I propose that the DOT create an ID that can be tied to my tax ID yet my personal data can not be extracted by anyone other than a DOT employee to determine facts about me. To prevent counterfeit or fraudulent use of my ID by another person, the DOT needs to reconsider how this can be done and provide a new proposal.

This bill has a provision requiring operators of transient accommodations who reside out of state or on an island other than the one on which the transient accommodations are located to include contact information for an agent who resides on the island on which the transient accommodations are located. Further provides and distinguishes that if the owner resides out of state, then this information must be included on their website.

It continues to be greatly concerning to me that the legislators continue to disregard, since this is a reappearance of exactly the same language that was ruled by another set of legislators as inappropriate and resultingly deferred, the fact that with respect to putting the emphasis on the guest, then that guest should have the same type of requirement from an owner, or an owner's advertisement, regardless of whether the owner that holds title to the subject rental property also has a personal residence on the same island. The guest does not care whether for tax purposes or for consumer protection purposes that the owner is a resident of the island or a resident on another island or on the mainland.

Equally, the tax department should not care for tax purposes whether the owner is resident or non-resident. What is the underlying issue? I can not see it. Please articulate it, we are trying to understand. You leave us with the impression that there is an agenda you do not wish to reveal since we have otherwise not received answers to our questions.

Aside from the unexplained and likely unconstitutional provision of once again creating a different standard and level of performance for an individual relative to their resident ownership status, there are other reasons why putting the name and telephone number of the local contact on the internet advertisement do not make sense and Rep. Brower as the Chairman of the TOU committee agreed. Here are, once again, the specifics that make this provision unnecessary and potentially harmful to the owner and citizens of Hawaii.

1. Listing a local contact in an ad or web site is confusing to prospective renters who may contact attempt to contact them in error before they have even committed to renting the accommodations.

2. It violates the privacy of the local contact. There is a provision in the Hawaii Constitution specifically regarding the state's obligation to protect the privacy of it's citizens.

3. It does not seem to serve any useful purpose. If it does provide a useful purpose, then it should apply equally to all owners of properties regardless of their residency as it would

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 7:07 AM
To: FINTestimony
Cc: kevinbrown9999@yahoo.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kevin Brown
Organization: Individual
E-mail: kevinbrown9999@yahoo.com
Submitted on: 4/1/2012

Comments:

I respectfully submit the following testimony for your consideration:

I fully support the proper collection and payment of taxes. I respectfully OPPOSE this bill in its present form.

My reasons are as follows:

I agree with the intent of SB 2947 SD2 HD1 though you must insure the the wording is not a term of rental agent but on island designated local contact or wording that does not require hiring a licensed realtor.

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

Insure the Registration Identification Number that shall be displayed conspicuously in all advertisements is NOT our Tax ID number. Posting a Tax ID number opens the door to potential fraudulent access to our personal information and our GET/TAT numbers may be used fraudulently by others in their advertisements.

Having publicly posting the name of the On Island Local Contact on all advertising websites poses a safety threat to both homeowner and visitor renting the property. Anyone with malicious intent may pose themselves as this person and unlawfully gain entry or access to the property or potentially harm visitors. I also believe this will be vary confusing to prospective renters.

It would be better to require us to supply the guests with the number of the designated local contact, by posting it in the room as well as included in their rental documents. We already provide this information to guests as part of the rental process and post the information within our unit.

This Bill contains "whistle-blower" rewards. The Tax Department in prior testimony has advocated that the Bill conform to Federal whistle-blower laws and we concur. Consider additional language to the whistle-blower section to the effect of:

If anyone is deemed to have turned in a name to the Department of Tax without demonstrating just or reasonable cause, they will be subject to criminal prosecution.

Thank you for your consideration of these suggestions.

Respectfully,

Kevin Brown

1734 NW Farewell Dr, Bend OR 97701

KevinBrown9999@yahoo.com

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 7:41 AM
To: FINTestimony
Cc: baitken@knightart.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie Aitken
Organization: Individual
E-mail: baitken@knightart.com
Submitted on: 4/1/2012

Comments:

Aloha Senators,

I am OPPOSED to SB 2947 SD2 HD1 as it is currently drafted. Although I am for the whistleblowing portion of this bill, I am opposed to the requirement that the tax identification number for the Transient Vacation Owner be placed on all public advertisements; including on websites.

My concern is that identity theft could undo what you are trying to accomplish and cause harm to legitimate TVR Owners. I suggest instead that you make this requirement to display tax identification numbers of the Transient Vacation Rental Owner be placed on all signed contracts between Owners and Renters. Legitimate owners can then demonstrate to the tax officials when asked, their compliance to this requirement. As the tax officials already have these numbers on file, they can verify the authenticity of these numbers. No one else can. If a large population of illegal Transient Vacation Rental Owners has the tax numbers of legitimate TVR owners, what is to stop them from fraudulently using these numbers? How would you know who is legit or not? What if these illegal TVR owners using someone else's legitimate tax identification caused the state to wrongly accuse and punish the wrong party? The state would still not know who the illegal TVR owners were and the illegal TVR Owners will have a list of all the legitimate tax numbers. They can change them frequently and avoid getting caught.

In conclusion, I recommend that the requirement for public display of tax identification numbers be limited to the contract between Owner and Renter and not for the public at large. The state already has these numbers and knows the property address corresponding to these numbers. The state could at any time review these contracts for accuracy. A random spot check by the county would insure legitimacy. Perhaps the state could require a copy of a contract that the owner sends to renters for their files on the owner. Thank you for giving me the opportunity to express my opinion on bill SB2947 SD2 HD1.

Mahalo,
Bonnie Aitken

FINTestimony

m: mailinglist@capitol.hawaii.gov
.it: Sunday, April 01, 2012 8:52 AM
To: FINTestimony
Cc: pmorgan@olyphen.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Patricia Morgan
Organization: Individual
E-mail: pmorgan@olyphen.com
Submitted on: 4/1/2012

Comments:

SB 2947 raises more questions. While I understand the state's desire to collect taxes, it would be better to enforce the laws already on the books. This new attempt to force those not contributing their fair share concerns me in that displaying a tax license number on our website will be a great source of fraud. We already have a local contact on the island and we have her name and number posted in our condo and it is also in the material we mail to our renters and so putting her name on our website may cause confusion with perspective renters. In the bill, the words "agent who resides on the island" should be replaced with "on-island local contact" because, if we are forced to use a licensed real estate professional, our local contact, who also represents other individual owners would be forced out of business.

Thank you for your consideration of these opinions as we all work together to do what is best to ensure that the state is able to collect all required revenues without impacting the employment of small businesses that are currently representing individual owners.

Pat Morgan
509 South Liberty St
Port Angeles, WA 98362
360.457.1729

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 31, 2012 6:08 AM
To: FINTestimony
Cc: dw-mcmahan@comcast.net
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Denis and Sylvia McMahan
Organization: Individual
E-mail: dw-mcmahan@comcast.net
Submitted on: 3/31/2012

Comments:

We are concerned about the potential fraudulent use of our GET/TAT license number in advertisements and on our website. Can the government insure that there would be no threat of Identify Theft with such easy public access to more of our information?

We have no problem with the government's oversight of our tax information and assuring themselves that we have always collected and forwarded both the GET and TAT in a timely and accurate manner.

There are surely ways to determine who is and who isn't paying their taxes and then go after those who are not paying their fair share. There needs to be more enforcement of Hawaii's already existing laws.

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 31, 2012 4:00 PM
To: FINTestimony
Cc: robstewart49@gmail.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: R Stewart
Organization: Individual
E-mail: robstewart49@gmail.com
Submitted on: 3/31/2012

Comments:

I am writing to oppose portions of SB 2947 SD2 HD1. This bill is wide in the scope of areas it covers.

Section 1 regarding Whistleblower awards. I support the testimony presented by the Director of the Department of Taxation who advocates replacing the language and instead substituting language of the Federal Whistleblower laws.

I request you consider adding:

"If anyone is deemed to have turned in a name to the Department of Taxation without demonstrating just or reasonable cause, they will be subject to criminal prosecution."

It would be very easy for anyone with a personal agenda to turn someone into the Department of Taxation causing the Tax Department to spend unnecessary time and expense in investigation where no real wrongdoing had taken place. If checks-and-balances in how this law is used are not put into place, it could become a time wasting chore for the tax department who would have to investigate. I do not discourage whistleblower laws where real knowledge is known regarding tax fraud, but this law should not be used as a "puppet" for individuals with a vendetta against someone else.

Section 6 Section 237-4 regarding advertising of transient accommodation advertising: This is a duplication of another Bill being proposed for passage please consider omitting entirely from this Bill.

If you retain this section please consider:

Tax identification numbers are used for paying one's taxes. By posting them publicly on advertising, those who wish to look legitimate will simply copy a real tax identification number. This will still cause your Tax Department or the Hawaii Tourism Authority to conduct as thorough an audit as before. Posting the tax identification will not provide the tax department any shortcuts in audits. They will still have to contact and verify the property being advertised is the property registered to the tax identification number. This cannot be done without spending time and matching information from all sources and contacting the person(s) doing the advertising. This is no shorter than the prior methods used by the Tax Department and Hawaii Tourism Authority. Just because the tax i.d. is in the advertising doesn't make it legitimate. This will still need to be verified.

In a few years if there is widespread misuse of legitimate tax identification numbers how would you correct this? The entire tax identification system would have to be reissued. It is a much better system to issue an Original Advertising I.D. number that is cross referenced to the individual GE/TA tax numbers. Then if wide scale misuse of the Original Advertising I.D. becomes a factor -- all advertising numbers can be purged and new numbers issued. You will not be able to have cycles of purging for wide scale misuse if you use TA tax i.d. numbers.

Secondly, there is a significant concern with identity theft when the tax identification number is being posted publicly.

Concerning the wording: "provided that if the operator resides out-of-state or on another island from where the transient accommodations are located, contact information of an agent who resides on the island on which the transient accommodations are located shall be included." Please omit the contact information being made public. This information in an advertisement that a tourist is looking at to make a decision to rent is unnecessary at this point, and worse, confusing to the tourist. This information could be included in the rental contract as well as posted in the unit.

Regarding the word "agent" please replace with "on-island contact";

Additionally, if those who are "on another island" need to post this information how would you know from an advertisement that they were on another island as opposed to on-island since all of Hawaii uses an 808 area code?

Thank you for reading my concerns.

Sincerely,
K. Stewart

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, April 01, 2012 6:58 AM
To: FINTestimony
Cc: marilyn7b@yahoo.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marilyn Brown
Organization: Individual
E-mail: marilyn7b@yahoo.com
Submitted on: 4/1/2012

Comments:

I respectfully submit the following testimony for your consideration:

I fully support the proper collection and payment of taxes. I respectfully OPPOSE this bill in its present form.

My reasons are as follows:

I agree with the intent of SB 2947 SD2 HD1 though you must insure the the wording is not the term of rental agent but on island designated local contact or wording that does not require hiring a licensed realtor.

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

Insure the Registration Identification Number that shall be displayed conspicuously in all advertisements is NOT our Tax ID number. Posting a Tax ID number opens the door to potential fraudulent access to our personal information and our GET/TAT numbers may be used fraudulently by others in their advertisements.

Having publicly posting the name of the On Island Local Contact on all advertising websites poses a safety threat to both homeowner and visitor renting the property. Anyone with malicious intent may pose themselves as this person and unlawfully gain entry or access to the property or potentially harm visitors. I also believe this will be vary confusing to prospective renters.

It would be better to require us to supply the guests with the number of the designated local contact, by posting it in the room as well as included in their rental documents. We already provide this information to guests as part of the rental process and post the information within our unit.

This Bill contains "whistle-blower" rewards. The Tax Department in prior testimony has advocated that the Bill conform to Federal whistle-blower laws and we incur. Consider additional language to the whistle-blower section to the effect of:

If anyone is deemed to have turned in a name to the Department of Tax without demonstrating just or reasonable cause, they will be subject to criminal prosecution.

Thank you for your consideration of these suggestions.

Respectfully,

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

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 30, 2012 10:00 AM
To: FINTestimony
Cc: John.Eckel@pinninvest.com
Subject: Testimony for SB2947 on 4/2/2012 3:00:00 PM

Testimony for FIN 4/2/2012 3:00:00 PM SB2947

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: John Eckel
Organization: Individual
E-mail: John.Eckel@pinninvest.com
Submitted on: 3/30/2012

Comments:
Aloha Honorable Committee members.

SB 2947 require that non-resident owners list their local contact on their web site or ad.

I opposed SB 2947 because:

Listing a local contact in an ad or web site is confusing to prospective renters who may contact attempt to contact them in error before they have even committed to renting the accommodations.

2. It violates the privacy of the local contact.
3. It discriminates against property owners based on where their residence is.
4. It does not seem to serve any useful purpose.

Mahalo for considering my testimony.