SB 3049

Measure Title:	RELATING TO TAXATION.
Report Title:	Taxation; Hotel Construction and Remodeling Tax Credit
Description:	Establishes a hotel construction and remodeling tax credit of ten per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii; applies to taxable years beginning after 12/31/2011, and ending 12/31/2017.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Donna Mercado Kim, Chair
and Members of the Senate Committee on Tourism

Date: February 7, 2012
Time: 1:15 p.m.
Place: Room 224

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 3049 Relating to Taxation

The Department of Taxation appreciates the intent of S.B. 3049 and offers the following comments for the Committee's information and consideration.

S.B. 3049 creates a nonrefundable income tax credit equal to 10% of qualified hotel construction or renovation costs incurred before July 1, 2017.

The Department suggests that the bill be amended for clarity and for implementation purposes. For example, subsection (e) requires the Department to monitor and confirm that the taxpayer is "in compliance with all applicable federal, state, and county statutes, rules and regulations." Every taxpayer is expected to conform with all federal, state and county laws; requiring the Department to monitor the taxpayer is an unreasonable and difficult requirement. The Department also notes that the definitions of subsection (f), such as "construction or renovation costs" need further refinement.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
'RICHARD C. LIM
Director

Department of Business, Economic Development & Tourism
before the

SENATE COMMITTEE ON TOURISM

Tuesday, February 7, 2012
1:15 p.m.
State Capitol, Conference Room 224

in consideration of
SB 3049
RELATING TO TAXATION

Chair Kim, Vice Chair Kouchi, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) supports SB 3049, which proposes a ten per cent tax credit for construction and renovation of qualified hotel facilities incurred before July 1, 2017.

DBEDT recognizes that continuous upgrades are needed to keep our tourism facilities competitive, and investment incentives also serve to increase construction jobs and service industry jobs in Hawaii.

Thank you for the opportunity to testify on this bill.

William Nhieu

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 03, 2012 3:23 PM
To: TSM Testimony
Cc: mike.j.mccartney@hawaiitourismauthority.org
Subject: Testimony for SB3049 on 2/7/2012 1:15:00 PM

Testimony for TSM 2/7/2012 1:15:00 PM SB3049

Conference room: 224
Testifier position: Support
Testifier will be present: Yes
Submitted by: Mike McCartney
Organization: Hawaii Tourism Authority
E-mail: mike.j.mccartney@hawaiitourismauthority.org
Submitted on: 2/3/2012

Comments:

OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

THE SENATE
26th LEGISLATURE
REGULAR SESSION of 2012

COMMITTEE ON TOURISM
Senator Donna M Kim, Chair

2/7/12
Rm. 224, 1:15 PM

SB 3048
Relating to Travel & Tourism Stimulus Initiatives

&
SB 3049
Relating to Taxation

Chair Kim and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels and Resorts to support both SB 3048 & 3049.

Both bills offer state financial assistance to the hotel industry for renovation or construction thru a tax exemption as in SB 3048 or a tax credit thru SB 3049.

In 1999, $1.2 million in hotel tax credits were granted, which went up to $7.4 million in 2001. What the State got in return was a better tourism infrastructure like the Kalia Towers in the Hawaiian Hilton Village complex and other improvements in Waikiki, which shows that these tax credit works.

I believe that the facts show that this credit has done what it was intended to do – spur additional needed construction activity, either thru renovations of properties or new construction, which keep Hawaii's people employed and generate positive tax revenue for the state.

We urge your support and mahalo for allowing me to testify.

2375 Kuhio Avenue, Honolulu, Hawaii 96815-2992 • Phone: 808-921-6600 • Fax: 808-921-6655

HAWAI'I LODGING & TOURISM
ASSOCIATION
2270 Kalakaua Ave., Suite 1506
Honolulu, HI 96815
Phone: (808) 923-0407
Fax: (808) 924-3843
E-Mail: hhla@hawaiihotels.org
Website: www.hawaiihotels.org

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TESTIMONY OF MUFI HANNEMANN
PRESIDENT & CEO
HAWAI`I LODGING & TOURISM ASSOCIATION

February 7, 2012

Senate Bill 3049 Relating to Taxation

Aloha Chairperson Kim and members of the Senate Committee on Tourism. I am Mufi Hannemann, President & CEO of the Hawai`i Lodging & Tourism Association (fka The Hawaii Hotel & Lodging Association).

The Hawai`i Lodging & Tourism Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 lodging properties representing over 48,000 rooms. Our lodging members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

On behalf of the Hawaii Lodging & Tourism Association, permit me to offer this testimony regarding Senate Bill 3049, which would provide a hotel construction and remodeling tax credit of 10 percent for a designated period.

The Hawaii Lodging & Tourism Association supports this measure, which we believe could stimulate the revitalization of the state's inventory of aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other destinations because it enables us to keep our hotels and resorts fresh and appealing and creates new reasons for visitors to travel here. It would have the added benefit of generating jobs in the construction industry at a time when other building has slowed significantly.

The Hilton Hawaiian Village's Kalia Tower, Marriott Waikiki Beach Resort, Aston Waikiki Beach, Outrigger Wailea, Outrigger Waikoloa, Waikiki Beach Walk, and resorts in Ko Olina have benefited in some form or fashion from tax incentives or government support.

Senate Bill 3049 can provide an important incentive for new investment in our visitor industry, and we urge its favorable consideration.

Mahalo.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hotel construction and remodeling tax credit

BILL NUMBER: SB 3049

INTRODUCED BY: Kim, Baker, Espero, Kidani and 6 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 and HRS chapter 237D to claim a nonrefundable hotel construction and remodeling tax credit of the construction or renovation costs incurred before 7/31/17. The credit shall be 10% of the construction and renovations costs and shall not be applicable to costs of construction or improvements for which another income tax credit was claimed for the taxable year. Defines "construction or renovation" costs as those incurred after June 30, 2012, but before July 1, 2017, for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

The tax credit shall be available for tax years beginning after December 31, 2010 and shall not be available for tax years beginning after December 31, 2016.

In the case of a partnership, S corporation, estate or trust, association of apartment owners of a qualified hotel facility, time share owners' association, or any developer of a time share project, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. To qualify for the credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Credits in excess of a taxpayer's income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

Defines "net income tax liability," "qualified hotel facility" and "taxpayer" for purposes of the measure.

EFFECTIVE DATE: Tax years beginning after December 31, 2011

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before 7/1/03. Act 10 also provided that the credit revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit of 10% for hotel renovation costs incurred in a taxable year.

The original tax credit was promoted on the argument that the tax credit would be an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at 4% to seemingly offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects that were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

While this measure proposes to reestablish a hotel renovation tax credit, it should be noted that no evaluation has been done to validate the effectiveness of this credit in spurring substantial renovations of hotel resort properties. While some may argue that this credit is necessary to make their upcoming renovations pencil out, one must ask whether or not it is the role of government to subsidize private investments. While the credit might be viewed as critical to a taxpayer's project or to the continued renovation of the resort plant, one must ask how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few?

It would be a very different picture if those who are asking for the subsidy would be willing to forgo other public services or make recommendations on how government can rein in spending, but that is not the case. Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government. One must ask how lawmakers can provide subsidies, like this proposal, while they raised the general excise tax on all other taxpayers to pay for a transit system in Honolulu? Taking care of a few taxpayers at the expense of all other taxpayers is certainly a cavalier attitude.

More importantly, if the intent of this measure is to entice hotel owners to undertake major renovations, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction or renovations, either the hotel owner has to be cash rich or else have access to the credit markets. As the nation now knows, the credit markets froze beginning in late 2007 and hit a crisis at the end of 2008. The phenomenon was a major reason for the demise of Aloha Airlines and ATA which were highly dependent on credit lines to meet on-going expenditures. When the credit markets froze, there was no way to secure cash advances to meet current liabilities and the two airlines, along with thousands of other businesses, had to shut their doors.

Despite herculean efforts to thaw those credit markets and to cajole corporations that are still sitting on over a trillion dollars worth of cash to loosen up and spend that money, they have all been for naught as there are still jitters about how firm a recovery is being had. Given that fact, it is doubtful that any hotel owner will undertake new renovation projects, in fact, some who had such projects underway have pulled back or completely shut down those projects for the time being. Thus, the sponsors of this proposal may find this incentive useless in this environment.

One only has to see what is happening in the credit markets as interest rates fall to historical lows as the Federal Reserve attempts to stimulate the economy. If consumers - businesses and individuals - are not willing to either make or take out loans, then the problem is bigger than just offering a "tax break" to hotel owners. Lawmakers need to rethink just how they can induce a more business friendly environment rather than merely subsidizing certain activities or industries.

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. For private projects, the permitting and planning process can be accelerated. One developer recently reported that it had taken two years to subdivide two parcels into seven house lots in rural Oahu at which time the planning and permitting department deferred approval citing eight issues to be addressed regarding subdivision approval. The interest on the seller has amounted to more than $500,000 to this point and going forward, both the buyer and seller are shelling out more than $27,000 a month for interest alone, not to mention the other planning and engineering costs. These are costs that could be mitigated if permitting officials would just work with developers and owners in streamlining these requirements. Apparently officials are reticent to make decisions in fear that they might make the wrong decision. The result is costly delays while construction work goes begging.

Thus, rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery. If nothing else, this measure demonstrates that lawmakers do not understand what makes the economy run and how businesses make their decisions. It is certainly sad that groups of people who have little, if any, business experience are attempting to tell the business community how it should be run.

Digested 2/3/12

American Resort Development Association

February 6, 2012

TO: SENATE COMMITTEE ON TOURISM
Senator Donna Mercado Kim, Chair
Senator Ronald D. Kouchi, Vice Chair

FROM: Daniel Dinell
ARDA – Hawaii, Chair

RE: SB 3048, Relating to Travel and Tourism Stimulus Initiatives
SB 3049, Relating to Taxation

Dear Chair Kim, Vice Chair Kouchi and members of the Committee:

ARDA-Hawaii is the local chapter of the American Resort Development Association, the national timeshare trade association, comprising of over 20 local members with 45 properties statewide. In the aggregate the timeshare industry comprises approximately 12% of the visitor units throughout the state.

ARDA-Hawaii supports both SB 3048 which provides a general excise tax exemption for hotel and resort construction and renovation and SB 3049 which provides a 10% hotel construction and remodeling tax credit construction and renovation costs. The fact that both bills include timeshare projects and properties is welcomed.

Timeshare has been and continues to be a good product for the State of Hawaii. In fact, the timeshare sector has and continues to outpace the State's overall visitor industry by two key measures: annual occupancy rates and investment in new construction. Consistent and resilient occupancy rates of timeshare properties continue to help stabilize hotel occupancy levels and mitigate negative economic impacts during periods of uncertainty. Timeshare and other alternative accommodations continue to be important components of a healthy visitor industry.

While Hawaii continues to attract its share of visitors, we are all to well aware that to continue to be a premiere resort destination depends on our ability to regenerate ourselves and offer a quality experience to our visitors, which includes the physical infrastructure. HB 3048 and HB 3049 both provide the private sector with investment incentives to develop new and improve existing visitor properties throughout the State.

ARDA-Hawaii strongly supports passage of these two bills. Thank you for the opportunity to submit these comments.

"Timeshare With Aloha"

Marriott
VACATION CLUB
KO OLINA BEACH CLUB
OAHU, HAWAII

TO:	COMMITTEE ON TOURISM Senator Donna Mercado Kim, Chair Senator Ronald D. Kouchi, Vice Chair
FROM:	Edgar Gum, Vice President Marriott Vacations Worldwide
DATE:	February 3, 2012
RE:	SB 3048 Relating to travel and tourism stimulus initiatives and SB 3049 Relating to taxation Hearing on February 7, 2012, 1:15 p.m. Conference Room 224

Dear Chair Kim, Vice Chair Kouchi and members of the Committee:

Our family of Marriott Vacation Club Resorts in Hawaii support HB 3048 which provides a general excise tax exemption for hotel and resort construction and renovation. We also support HB 3049 which provides a 10% hotel construction and remodeling tax credit construction and renovation costs. Both bills will only serve to help our hotel and timeshare industry in Hawaii during this difficult period of economic recovery.

Our timeshare resorts in Hawaii continue to provide consistent employment for the citizens of Hawaii. Our timeshare owners, with their loyalty to Hawaii and immense sense of pride in their resorts, continue to return to Hawaii and provide revenues to large and small businesses, as well as tax revenues for the State of Hawaii.

HB 3048 and HB 3049 both provide lodging companies with an incentive to develop new resorts and renovate existing facilities in Hawaii, providing additional jobs, tax revenues and the continued loyalty by our visitors.

We support the passage of both bills. Thank you for reviewing our testimony.

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM
GARY M. SLOVIN
MIHOKO E. ITO
CHRISTINE OGAWA KARAMATSU
ANNE T. HORIUCHI

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
meito@goodsill.com
ckaramatsu@goodsill.com
ahoriuchi @goodsill.com

TO: Senator Donna Mercado Kim
Chair, Committee on Tourism
Via Email: TSMtestimony@capitol.hawaii.gov

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: February 6, 2012

RE: **S.B. 3048 – Relating to Travel and Tourism Stimulus Initiative**
S.B. 3049 – Relating to Taxation
Hearing: February 7, 2012 at 1:15 pm
Conference Room 224

Dear Chair Kim and Members of the Committee on Tourism:

Wyndham Vacation Ownership offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham supports S.B. 3048 which provides a general excise tax exemption for hotel and resort construction and renovation and S.B. 3049 which provides a 10% hotel construction and remodeling tax credit construction and renovation costs. Both bills include timeshare projects and properties.

Timeshare is important for the State of Hawaii and is an important component of a strong visitor industry. Timeshare provides stability for the visitor industry through its occupancy rates, which mitigates negative economic impacts during periods of uncertainty. Timeshare properties have been a key to investment in new construction and renovation projects. In order for Hawaii to continue to attract visitors in the global marketplace, resorts must offer a quality experience to our visitors and maintain and improve their physical infrastructure. S.B. 3048 and S.B. 3049 both provide the private sector with investment incentives to develop new and improved existing visitor properties throughout the State.

For these reasons, Wyndham strongly supports these two bills.

Thank you very much for the opportunity to testify regarding these measures.

3706528.1

Kyoya

Testimony of Ernest K. Nishizaki
Executive Vice President
Kyo-ya Company, LLC

February 6, 2012

RE: SB 3048 & SB 3049

Good Afternoon Chair Mercado Kim, Vice Chair Kouchi, and members of the Senate Committee on Tourism. My name is Ernest Nishizaki and I represent Kyo-ya Company, LLC.

Kyo-ya has been part of the Hawaii community for more than 50 years. Our five Hawaii properties—The Royal Hawaiian, the Moana Surfrider, the Princess Kaiulani, the Sheraton Waikiki, and the Sheraton Maui—have an aggregate inventory of approximately 4,600 hotel rooms and suites. Our company is among Hawaii's largest private employers providing work opportunity for over 3,200 Hawaii residents.

Kyo-ya is committed to the long term success of Hawaii's visitor industry. Here in Waikiki, over the past eight years, we have invested nearly $300 million at the Moana Surfrider, The Royal Hawaiian and the Sheraton Waikiki Resort.

In undertaking these projects, we are fully cognizant of our role as stewards of these lands and these hotels that are part of our Island history and heritage. We are committed to the long-term sustainability of our hotels and, most importantly, the continued vitality of our State's primary industry—tourism. The re-development of the Princess Ka'iulani and the Diamond Head Tower adjacent to the historic Moana Hotel, estimated to cost in excess of $700 million, will continue our efforts to refresh our Waikiki resort offerings that will attract new and repeat visitors and allow Waikiki to compete in the global tourist destination arena.

We fully support the intent of these bills that will provide for tax incentives and/or credits for hotel and resort construction and renovation projects, which will provide additional stimulus in our efforts to make these two projects a reality. We sincere appreciate the support and the wisdom of the Chair and the Committee in proposing this legislation.

Thank you for the opportunity to provide this testimony.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org

GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

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February 7, 2012

TO: HONORABLE SENATORS DONNA MERCADO KIM, CHAIR, RON KOUCHI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON TOURISM

SUBJECT: **STRONG SUPPORT OF S.B. 3049, RELATING TO TAXATION.** Establishes a hotel construction and remodeling tax credit of ten per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii; applies to taxable years beginning after 12/31/2011, and ending 12/31/2017.

HEARING

DATE: Tuesday, February 7, 2012
TIME: 1:15 P.M.
PLACE: Conference Room 224

Dear Chair Mercado Kim, Vice Chair Kouchi and Members:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; it remains the largest construction association in the State of Hawaii. GCA is testifying **in strong support** of S.B. 3049, Relating to Taxation.

S.B. 3049 proposes to tax credit of ten per cent for hotel construction or renovation costs for six years beginning after 12/31/2011.

The GCA **strongly supports** this measure that will spur the local economy, add more value to Hawaii's hotel inventory, and increase the marketability of Hawaii's tourism industry. Moreover, in this period of high unemployment and economic stagnation in Hawaii's construction industry, the proposed tax credit will provide additional stimulus to spur additional hotel construction and renovation that may not otherwise be undertaken.

The GCA believes that any vehicle to stimulate Hawaii's economy and provide additional jobs will be helpful in this time of slow growth.

The GCA **supports** the passage of S.B. 3049 and recommends its passage.

Thank you for the opportunity to present our views on this bill.

TESTIMONY OPPOSING SB3048 and SB3049
RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES and
RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT

Tourism is the heart beat of the Hawaii economy. Most Hawaii hotels and resort accommodations are owned by non-resident investors. Accommodations are the richest part of the tourism industry earning 40% of total tourism revenues. Most of Hawaii's hotel and resort profits are sent out-of-state to non-resident investors.

On all islands, in all of our towns and villages local residents operate home-based short-stay accommodations businesses that provide local jobs, local income and a more diversified tourism product that is preferred by some visitors. Profits stay here and are reinvested into our local communities. These bed and breakfasts and vacation rental homes operate successfully and are well-accepted in residential communities around the world.

These local accommodations businesses pay transient accommodations taxes and therefore deserve to receive some support as well as those properties owned and operated by overseas investors.

We request that the names of the bills be changed to:

SB3048	**Visitor accommodation construction and renovation tax exemption**
SB3049	**Visitor accommodation construction and remodeling tax credit**

We respectfully request that the meaning of eligible activity be expanded to include construction and remodeling of bed and breakfast and vacation rental homes and other short-stay accommodations licensed by the State of Hawaii as transient accommodations.

The phrases "qualified hotel facility" and "hotel facility or resort facility in Hawaii" may be replaced with "licensed transient accommodations" throughout the documents.

It would be grossly unfair to extend these tax credits to overseas investors while denying them to small local businesses that operate in great numbers on all islands. Bed and breakfast are the most popular small business in Hawaii.

If the objective is to stimulate construction, please remember that jobs are created by small businesses and that local family-run businesses need just as much support as the large hotels.

Without the above changes, we must oppose this bill.

Mahalo,

William H. Page
President

Page Marketing, Inc.
P.O. Box 1546, Kailua, HI 96734
Ph: 808-262-6776 • will@pagemarketing.com • www.PageMarketing.com