

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



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

FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

To: The Honorable Angus L.K. McKelvey, Chair  
and Members of the House Committee on Consumer Protection & Commerce

Date: Monday, February 25, 2013  
Time: 2:30 p.m.  
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 457, Relating to Act 326, Session Laws of Hawaii 2012, Reporting Requirements

The Department of Taxation (Department) supports the intent of H.B. 457, and provides the following information and comments for your consideration.

This measure amends Act 326, Session Laws of Hawaii 2012, by clarifying what information must be provided to the Department by a transient accommodation and by modifying the penalties for non-compliance.

First, the Department suggests the bill's subsection (a) be amended to contain further guidance on who may act as a designated local contact. The Department has received numerous inquiries about whether a friend or relative may act as the contact, or whether the contact must be a licensed real estate professional or must meet some other criteria.

Second, the Department strongly supports changing the penalty for failure to report information under this Act from a criminal penalty to a civil penalty, and clarifying that the penalty may only be imposed once per year. The Department recommends adopting the amended penalty language set forth in HB955 HD1. The language of HB955 HD1 includes amendments to the penalty provisions in subsections (b) and (e) for consistency, and also adds an express provision noting that the penalty shall only be imposed once per year.

Third, the Department supports amending the language to clarify that the reporting requirements of subsection (c) extend only to the information that is received from operators. The Department suggests the language be amended to state that the nongovernmental entities are required to submit to the Department the name, address and contact information of the local contacts designated under subsection (a), in addition to the requirement to submit relevant information, to the extent operators provide that information. The Department notes that

operators are required to submit the name, address and contact information of local contacts under subsection (b) and it would not be unduly burdensome for the nongovernmental entities to then supply that information to the Department.

Pursuant to the Department's recommended changes noted above, the Department suggests subsection (c) be amended to read as follows:

(c) Any nongovernmental entity with covenants, bylaws, and administrative provisions which is formed pursuant to chapter 514A, 514B, or 421J, shall provide the department with all relevant information~~[received from operators and the name, address, and contact information of local contacts designated by operators and maintained in its records]~~~~[related to all operators who may be leasing their property as transient accommodations]~~ by December 31 of each year, or within sixty calendar days of any change in the relevant information, operation, or ownership of the transient accommodation~~[]]; provided that a nongovernmental entity's duty to report under this section shall be limited to relevant information and the name, address, and contact information of local contacts, if any, received from operators. Any person or entity who wilfully fails to supply information required under this subsection shall be subject to ~~[the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.]~~ pay a civil penalty of \$1,000. The penalty shall be imposed no more than once per year.~~

Thank you for the opportunity to provide comments.



P.O. Box 976  
Honolulu, Hawaii 96808

February 22, 2013

Honorable Angus L.K. McKelvey  
Honorable Derek S.K. Kawakami  
Consumer Protection and Commerce  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **HB 457/SUPPORT**

Dear Chair McKelvey, Vice-Chair Kawakami and Committee Members:

I am the vice-chair of the CAI Legislative Action Committee. CAI has the following comments in **support** of **HB 457**.

First, HB 457 will serve to clarify the reporting requirements for associations in connection with operators of transient rentals in their communities. Currently the members of such associations that serve on their boards are confused about the reporting requirements, and thus, we support the clarification offered by HB 457, *i.e.*, only the information provided by operators to associations will then be reported to the appropriate tax authority, and there is no duty for such volunteer board members to conduct an independent inquiry for such information.

Second, Act 326 currently provides for excessive penalties for such volunteer board's failure to report the activity that the Act targets, yet such boards and associations receive no benefit from that activity. The penalties should remain to sanction the operators that fail to comply with the Act 326 reporting requirements. However, the reduction of the penalty for associations is appropriate as reflected in HB 457.

CAI represents the association industry, and endorses this approach. We respectfully request the Committee to pass **HB 457**. Thank you.

Honorable Angus L.K. McKelvey  
Honorable Derek S.K. Kawakami  
February 22, 2013  
Page 2 of 2

Very truly yours,

A handwritten signature in black ink, appearing to read 'CP', written in a cursive style.

Christian P. Porter

**kawakami2 - Rise**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 10:39 AM  
**To:** CPCtestimony  
**Cc:** psnerney@yahoo.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Philip Nerney	Individual	Support	No

Comments: HB457 contains needed fixes to the law passed in 2012. It clarifies the role of associations and eliminates an unfair and unreasonable penalty existing in current law.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 10:46 AM  
**To:** CPCtestimony  
**Cc:** johnb@hmcmtg.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
john bouchie	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 10:49 AM  
**To:** CPCtestimony  
**Cc:** bruceh@hmcmtg.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bruce Howe	Individual	Support	No

Comments: Comments: HB457 contains needed fixes to Act 326 passed in 2012. It clarifies the role of associations and eliminates an unfair and unreasonable penalty existing in current law.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 10:54 AM  
**To:** CPCtestimony  
**Cc:** tedwalkey@hmcmtg.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ted Walkey	Individual	Support	No

Comments: HB457 contains needed fixes to the law passed in 2012. It clarifies the role of associations and eliminates an unfair and unreasonable penalty existing in current law.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 11:08 AM  
**To:** CPCtestimony  
**Cc:** johnramsey@hmcmtg.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Ramsey	Individual	Support	No

Comments: HB457 CONTAINS NEEDED FIXES TO THE THE LAW PASSED IN 2012. IT CLARIFIES THE ROLE OF ASSOCIANTIONS AND ELIMINATES AN UNFAIR AND UNREASONABLE PENALTY EXISTING IN CURRENT LAW.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 1:24 PM  
**To:** CPCtestimony  
**Cc:** beverlyf@hmcmtg.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Beverly FeBenito	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 12:29 PM  
**To:** CPCtestimony  
**Cc:** als@hmcmtg.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Al Schafer	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 2:58 PM  
**To:** CPCtestimony  
**Cc:** kessler808@gmail.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kenneth Kessler	Individual	Support	No

Comments: HB457 contains needed fixes to the law passed in 2012. It clarifies the role of associations and eliminates an unfair and unreasonable penalty existing in current law. Thank you.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 3:08 PM  
**To:** CPCtestimony  
**Cc:** danan@hmcmgt.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dana Newberry	Individual	Support	No

Comments: HB457 contains needed fixes to the law passed in 2012. It clarifies the role of associations and eliminates an unfair and unreasonable penalty existing in current law.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 4:03 PM  
**To:** CPCtestimony  
**Cc:** scotts@hmcmtg.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Sakai	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 6:52 PM  
**To:** CPCtestimony  
**Cc:** Alan@CertifiedHawaii.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Takumi	Individual	Support	No

Comments: I am a community association manager and this will help our associations.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 8:44 PM  
**To:** CPCtestimony  
**Cc:** dmhinkley@hotmail.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
D M Hinkley	Individual	Support	No

Comments: Passage of HB457 is needed to fix the current law, passed in 2012; it clarifies the role of associations and eliminates an unfair and unreasonable penalty currently existing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 6:55 AM  
**To:** CPCtestimony  
**Cc:** als@hmcmtg.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Al Schafer	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 10:28 AM  
**To:** CPCtestimony  
**Cc:** info@realestatemauihawaii.com  
**Subject:** \*Submitted testimony for HB457 on Feb 25, 2013 14:30PM\*

**HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark A. Harbison	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 11:14 AM  
**To:** CPCtestimony  
**Cc:** tom@certifiedhawaii.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thomas Tabacco	Individual	Support	No

Comments: Condominiums should not be responsible to have to report if an individual owners is renting their unit as a transient accommodation.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 11:22 AM  
**To:** CPCtestimony  
**Cc:** golfdudehi@gmail.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Schick	Individual	Support	No

Comments: This bill will rectify to some degree the errors of Act 326, 2012 session.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 11:22 AM  
**To:** CPCtestimony  
**Cc:** golfdudehi@gmail.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Schick	Individual	Support	No

Comments: This bill will rectify to some degree the errors of Act 326, 2012 session.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 12:03 PM  
**To:** CPCtestimony  
**Cc:** gomem67@hotmail.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

### **HB457**

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Matsumoto	Individual	Support	No

Comments: This bill has the revised provisions being applied to PCAs/AOAOs with regard to the following: 1. Reduces the egregious penalty of up to \$100K for not reporting to \$1K per year; 2. Reporting to the Tax Dept only the informaiton provided by the operator w/no duty to conduct investigaton/inquiry on that infomraiton provided. Recommend this bill be passed with the changes therein. As a comment however, there is concern with the statute having the provisions for reporting of private business information of owners to the Tax Dept for the purpose of obtaining tax liability information from non-profit associatons of homeowners. This appears to be discriminatory and penalizes homeowners in PCAs/AOAOs since no provision is placed on those who do not live in planned communities. Also, the requirements do not relate to the business of these homeowner associations, and no cost reimmbursement or tax rebate, etc. is provided for the work involved. It should also be noted that PCAs are not created by legislation, but by Aticles of Incorporation, with By-Laws and DCRs.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 23, 2013 1:30 PM  
**To:** CPCtestimony  
**Cc:** jgross2@taxproz.com  
**Subject:** Submitted testimony for HB457 on Feb 25, 2013 14:30PM

**HB457**

Submitted on: 2/23/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John W. Gross		Support	No

Comments: I am writing on behalf of the AOA Alii Lani in Kailua-Kona asking for your support of this change. While AOA Alii Lani believes there should be no requirement for Homeowners Associations to report operator details to the state tax office because of the inability of state tax authorities to collect, this is an improvement on the current wording of the Act and clarifies the legal requirements.

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