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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 1201, S.D. 1
Relating to Transient Accommodations Tax
House Committee on Tourism
Monday, March 18, 2013
9:35 a.m.
Conference Room 312

The Hawai'i Tourism Authority (HTA) opposes S.B. 1201, S.D. 1, which proposes to impose the transient accommodations tax (TAT) on resort fees.

The bill defines "resort fees" as "...any mandatory charge or surcharge imposed by a transient accommodations operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation's property, services or both...", and defines "gross rental" to include "...resort fees or any other type of surcharge charged to a guest for the furnishing of a transient accommodation." Section 237D-1, however, defines "transient accommodations" as "***the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient...***" and section 237D-2 assesses the tax on the "***proceeds derived from furnishing transient accommodations***." A resort fee is not for an accommodation that is occupied. It is for a service or product purchased by the guest and is not derived from the furnishing of transient accommodations.

Hawaii is a leisure destination, where the visitor's spending is discretionary. As such, our visitor market is price-sensitive, and any increase could drive a traveler to a competing destination. An additional charge, such as imposing the TAT on resort fees will only diminish Hawaii's ability to compete in a price-sensitive market. S.B. 1201, S.D. 1, does not merely simplify or clarify that mandatory resort fees are subject to the TAT, it increases the cost of a Hawaiian vacation for our leisure visitor. This could cause us to lose momentum in the significant gains in visitor arrivals and spending experienced over the past three years. We need to ensure the continued success of our industry for the state's economy to be sustainable.

Instead of imposing the TAT on resort fees, we believe that by investing in opportunities to maintain market share and diversify our tourism profile in the leisure and meetings, conventions and incentive (MCI) markets, enhancing access and neighbor island

distribution, and building on the experiential assets of our people, place and culture, we can generate greater revenue that will benefit the entire state.

For these reasons we oppose S.B. 1201, S.D. 1, and request that it be held.

Mahalo for the opportunity to offer these comments.



HAWAII LODGING & TOURISM

ASSOCIATION

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**TESTIMONY OF GEORGE SZIGETI
PRESIDENT & CEO
HAWAII LODGING & TOURISM ASSOCIATION**

House Committee on Tourism

RE: SB 1201, SD1 Relating to the Transient Accommodations Tax

Monday, March 18, 2013, 9:35am Room 312

Good morning Chair Brower, Vice Chair Cachola, and members for the House Tourism Committee. My name is George Szigeti, I am President and CEO of the Hawaii Lodging & Tourism Association.

The Hawaii 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 3,499 rooms of the Hilton Hawaiian Village Waikiki Beach Resort to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawaii Lodging & Tourism Association strongly opposes SB 1201 Relating to Transient Accommodation Tax. This measure would impose the Transient Accommodation Tax onto resort fees. The resort fee is not part of the guest room accommodation. The resort fees are for ancillary benefits like the use of the gym and spa facilities, WiFi, and shuttle services to name a few. These tax increases make a Hawaiian vacation more expensive and target the visitor industry at time when increased visitor arrivals are our best opportunity to increase revenue flowing to our state and to have more people working.

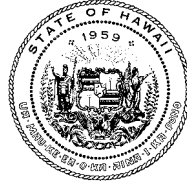
The visitor industry is the economic driver for our state economy, it provides over 167,000 jobs, with a projection to grow to 185,000 in the next couple of years. We should do everything within our means to insure that we keep the strong momentum built up over these past couple of years. The revenues we seek will come with the continued visitor arrivals and spending (14.9 Billion in 2012!), which in turn will create the additional jobs.

The visitor industry is a fragile and highly competitive industry, by adding additional taxes on an already expensive destination only puts us at a severe disadvantage in the local and Global markets that we compete.

I appreciate this opportunity to testify in opposition of S.B. 1201

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
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: Monday, March 18, 2013
Time: 9:35 A.M.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 1201 S.D. 1, Relating to Transient Accommodations Tax

The Department **strongly supports** S.B. 1201 S.D. 1, and offers the following information and comments for your consideration.

S.B. 1201 S.D. 1 clarifies that resort fees and other surcharges imposed on guests at a hotel or other transient accommodation are subject to the transient accommodations tax (TAT).

The TAT is imposed on gross rental proceeds derived from furnishing transient accommodations. "Gross rental" or "gross rental proceeds" is defined as the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such transient accommodations without any deduction.

To the extent mandatory resort fees are paid by a person in exchange for being furnished a transient accommodation, those mandatory resort fees constitute gross rental proceeds and are subject to the TAT. Merely stating mandatory resort fees as a separate line item on a bill is not sufficient to demonstrate that resort fees are not charged in exchange for furnishing of the transient accommodation, or whether they were paid as part of a wholly separate transaction.

In other words, a mandatory resort fee is a fee that the guest cannot opt out of. Mandatory resort fees are subject to TAT because the guest would not be allowed the use of the transient accommodation without paying the mandatory resort fee.

For example, if internet service is part of a mandatory resort fee imposed on guests, the resort fee is subject to TAT. Conversely, if the transient accommodation offers internet service to guests as an optional service for a separate fee, and the guest voluntarily agrees to pay the fee in order to receive the service, the fee would not be subject to TAT.

The key difference in these two examples is that the first example consists of mandatory resort fees which must be paid in order to use the transient accommodation and the second example consists of a charge that the guest may incur of the guest's own volition; the guest would be allowed the use of the transient accommodation regardless of whether he or she ordered the internet service or not.

The Department estimates there were approximately \$42.7 million of mandatory resort fees charged in the State in 2010, and based on that, estimates the TAT on mandatory resort fees to be \$4 million annually.

Thank you for the opportunity to provide testimony.

March 18, 2013

starwood

Hotels and
Resorts

2155 kalakaua avenue, suite 300
honolulu, hi 96815

united states

To: Honorable Tom Brower, Chair
House Committee on Tourism
Hawaii State Capitol, Honolulu, Hawaii 96813

RE: **SB 1201 SD1, Relating to Transient Accommodations Tax - Oppose**
Conference Room 312, 9:35 AM

Aloha Chair Brower and Members of the Committee:

My name is Keith Vieira, Senior Vice President of Operations for Starwood Hotels and Resorts ("Starwood") in Hawai'i and in French Polynesia. We appreciate the opportunity to provide testimony in opposition to SB 1201 SD1, Relating to Transient Accommodations Tax ("TAT").

Starwood is concerned that the imposition of any new taxes and fees on the visitor industry would not result in the generation of more revenues for the state as intended and may have perverse consequences by causing a visitor to choose another less costly destination than Hawai'i.

We strongly object to amending the existing TAT law, to make "gross rental" or "gross rental proceeds" subject to this tax. Resort fees are ancillary services, not part of the guest room accommodation and should not subject to a TAT. Resort fees include parking charges and internet access free of charge as standards. Our hotels add additional products and services based upon customer feedback. Resort fees began because customers did not like additional charges affixed to their bills. Based upon customer satisfaction surveys and comments, guests see the value in a resort charge.

This bill strays away from the original intent of the TAT and sends an unwelcome message to visitors that our state is making a grab for more revenues. Unlike other large markets, Hawai'i is a leisure destination. Our TAT rates coupled with the General Excise Tax place us among the highest tax brackets compared to other visitor destinations. Because we compete against other leisure markets that offer a greater value, Hawai'i's market is price sensitive since visitor spending here is discretionary. Let's not reverse the positive momentum our state is enjoying by passing unnecessary fee and tax increases to our visitor industry.

For these reasons, we urge the Committee to HOLD this bill.

Sincerely,

Keith Vieira
Senior Vice President of Operations
Starwood Hotels and Resorts - Hawai'i and French Polynesia



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

COMMITTEE ON TOURISM
Representative Tom Brower, Chair

3/18/2013
Rm. 312, 9:35 AM

SB 1201, SD 1
Relating to Transient Accommodations Tax

Chair Brower and Members of both Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii in opposition to this bill.

If the intent of this bill is to get more taxes by applying the TAT to resort fees, nothing will be accomplished, because the hotels will just unbundle the various activities or services to a ala carte menu, which will cost more for the hotel guest.

If the intent is to inform a guest prior to booking a room of a extra fee when they rent a room, then that is easily accomplished by requiring notification upfront.

Otherwise this bill will not accomplish anything, other then to make it more expensive for our visitors.

We urge your deferral of this bill and thank you for allowing me to testify.



Michael Jokovich
General Manager

Hyatt Regency Maui Resort and Spa
on Kaanapali Beach
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**Testimony of
Michael Jokovich
General Manager
Hyatt Regency Maui Resort and Spa
on
SB1201
Relating to Transient Accommodations Tax**

**COMMITTEE ON TOURISM
Monday, March 18, 2013, 9:35 am
Room 312**

As General Manager of the Hyatt Regency Maui Resort and Spa, I am opposed to SB1201 which clarifies fees that are subject to the transient accommodations tax.

The bill defines "resort fees" as "...any charge or surcharge imposed by a transient accommodations operator, ... to a transient or occupant for the use of the transient accommodation's property...", and defines "gross rental" to include "...resort fees or any other type of surcharge charged to a guest for the furnishing of a transient accommodation." Section 237D-1, however, defines "transient accommodations" as "the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient..." A resort fee is not for an accommodation that is occupied. It is for a service or product purchased by the guest.

The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island – directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

In 2009, the state government raised the TAT with a 1% increase effective July 1, 2009, and an additional 1% in 2010. Based on the average cost of a hotel room on Maui, the current TAT rate of 9.25%, plus the GET, results in a tax bill of 13.41%, or more than \$32 a night, our guests must pay. An additional charge, such as imposing the TAT on resort fees, will only diminish Maui's ability to compete in a price-sensitive market. This could cause us to lose momentum in the significant gains in visitor arrivals and spending experienced over the past three years. We need to ensure the continued success of our industry for the state's economy to be sustainable.

I urge you to oppose SB1201.

Thank you for the opportunity to testify.



Gerard C. Gibson
Area Vice President

Testimony of
Gerard C. Gibson
AVP, Hilton Hotels Hawaii/Southern California
on
S.B. 1201
Relating to Transient Accommodations Tax
House Committee on Tourism and Hawaiian Affairs
Monday, March 18, 2013, 9:35 am
Conference Room 312

Aloha Chairman Brower and Members of the Tourism Committee,

My name is Jerry Gibson, Area Vice President for Hilton Hotels Hawaii and Southern California. We proudly represent over 5,400 hardworking hospitality team members in Hawaii. Through the good years and the down cycles these outstanding individuals along with 170,000 brothers and sisters of other hospitality flagships represent the face of tourism in Hawaii. Our chosen industry is a fragile one, compromised by recessions, hurricanes, stock market crashes, war, earthquakes, SARs, tsunamis and a myriad of other threats. As an industry, we are faced with the various challenges of running a viable business. Yet, we still remain grateful to our communities, respectful of our sense of place and take the lead on giving back to our State as the number one employer, financial resource and stimulus of our delicate island economy.

S.B. 1201 consists of a tax burden that we humbly should not have placed upon us. It is not the intent of the TAT tax to pay for ancillary or internal individual hotel marketing programs. The resort fee is not an accommodation; you cannot sleep on it, flush it or shower under it. Section 237D-1, however, defines "transient accommodations" as **"the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient..."** and section 237D-2 assesses the tax on the **"proceeds derived from furnishing transient accommodations."**

Combined taxes by the industry will total \$1,643,000.00 in 2013. This will help go a long way to support schools, infrastructures, social programs and general reserve improvements.

I hope we can together re-look at our industry as a resource and find less ways to tax it and more ways to perpetuate it.

Hilton Hotels Hawaii opposes S.B. 1201, which proposes to impose the transient accommodations tax (TAT) on resort fees.

Most Sincerely,
Gerard C. Gibson



Official Sponsor

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Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB1201

Relating To Transient Accommodations Tax

COMMITTEE ON TOURISM

Wednesday, March 18, 2013, 9:35am

Room 312

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 140 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA’s membership employs over 20,000 local residents.

MHLA opposes SB1201 which clarifies fees that are subject to the transient accommodations tax.

The bill defines “resort fees” as “...any charge or surcharge imposed by a transient accommodations operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation’s property...”, and defines “gross rental” to include “...resort fees or any other type of surcharge charged to a guest for the furnishing of a transient accommodation.” Section 237D-1, however, defines “transient accommodations” as “the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient...” A resort fee is not for an accommodation that is occupied. It is for a service or product purchased by the guest.

The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

In 2009, the state government raised the TAT with a 1% increase effective July 1, 2009, and an additional 1%, 2010. Since the July 1, 2010, guests and locals have paid a TAT of 9.25%. Coupled with the GET, guests pay a 13.41% tax on Maui. Based on the annual average cost of a hotel room and the 13.41% tax rate, the average tax bill is \$32 per night.

An additional charge, such as imposing the TAT on resort fees will only diminish Maui’s ability to compete in a price-sensitive market. This could cause us to lose momentum in the significant gains in visitor arrivals and spending experienced over the past three years. We need to ensure the continued success of our industry for the state’s economy to be sustainable.

We urge you to oppose SB1201.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Resort fee

BILL NUMBER: SB 1201, SD-1

INTRODUCED BY: Senate Committees on Tourism and Hawaiian Affairs and Ways and Means

BRIEF SUMMARY: Amends HRS section 237D-1 to amend the definition of “gross rental” or “gross rental proceeds” to include resort fees or other types of surcharges charged to a guest. Adds a definition of resort fee as any charge or surcharge imposed by a transient accommodation operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation’s property, services or amenities.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This was an administration measure submitted by the department of taxation TAX-22 (13). It appears that this measure is proposed to extract additional tax revenues from the visitor industry, in this case by the imposition of the transient accommodations tax (TAT) on resort fees. It should be noted that while some resorts and hotels impose such a “resort fee” to provide guests access to certain areas of the resort including swimming pools, health spas, tennis courts, etc., others may include it in the cost of the room. If the guest has no interest in these recreational “extras,” he or she can choose not to pay the resort fee. The point is that renting a hotel accommodation does not necessarily require the guest to pay the resort fee, but is often an option and is not implicit in the cost of the room rental.

Other than a grab for more revenues, this proposal makes little sense in that it attempts to extend the TAT to services that are not a prerequisite of renting a hotel room. Even when a visitor buys a vacation package from a packager of rooms and activities, the TAT is collected only on the amount that is determined to be for the rental of the hotel room and not on tours, meals, and transportation. This is the start of a slippery slope. For example, as a promotion a hotel offers the guest free breakfast for two. But the daily hotel room rate is the same as that for someone off the street. Will this proposal set a precedent and give the department basis to impute the cost of the breakfast and impose both the general excise tax and the TAT on that imputed amount because it is being offered by the hotel?

The TAT was adopted with the rationale that the tax is imposed on the gross income received from the rental of a hotel room and not from any charges that have nothing to do with that rental. Should lawmakers insist on imposing the TAT on such charges, the bright line should be whether or not such charges are discretionary as opposed to mandatory. Where the guest has a choice in paying such charges and making use of the services offered, the resort charge should not be imposed as obviously the resort charge does not prevent the rental of the room. On the other hand, if the resort charge is mandatory, then the department might be able to argue that the charge is an implicit part of the room charge and subject to the TAT. Given the disparity among the many hotels who do charge a resort fee, it would be prudent to sit down with hotel operators and agree on what constitutes a resort fee and the rationale for a mandatory versus a discretionary resort fee, the former of which would be taxable under the TAT.

Digested 3/14/13

**Testimony of
Gary M. Slovin / Mihoko Ito
on behalf of
Wyndham Vacation Ownership**

DATE: March 16, 2013

TO: Representative Tom Brower
Chair, Committee on Tourism
Submitted Via TOUTestimony@capitol.hawaii.gov

RE: **S.B. 1201 S.D.1 – Relating to Transient Accommodations Tax**
Hearing Date: Monday, March 18, 2013 at 9:35 a.m.
Conference Room 312

Dear Chair Brower and Members of the Committee on Tourism:

We submit this testimony on behalf of Wyndham Vacation Ownership.

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 **opposes** S.B. 1201 S.D.1, which amends the definition of resort fee to mean any mandatory charge or surcharge imposed by a transient accommodations operator, owner, plant manager, or representative thereof to a transient or occupant for the use of the transient accommodation's property, services, or amenities.

Resort fees should not be subject to the transient accommodations tax ("TAT"). These fees are ancillary fees for a product or service purchased or utilized by a guest, such as parking, shuttle services, or Internet access, and which are not related to the room or accommodation.

The definition of resort fee proposed in the bill is also extremely broad and has the potential to capture other types of services provided by a hotel beyond resort fees. For example, if a guest sends a fax from the property and the charge for the fax is charged to the guest, the transaction could be subject to the TAT under the proposed bill.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Nicole A. Velasco

1099 Alakea Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840

Expanding the reach of the TAT to resort fees (beyond the current TAT of 9.25% on room rates and in addition to the the General Excise Tax) will ultimately impact visitors' decisions to travel and vacation in Hawaii.

For these reasons, we respectfully request that you hold this measure.

Thank you very much for the opportunity to submit testimony.

SB1201

Submitted on: 3/17/2013

Testimony for TOU on Mar 18, 2013 09:35AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Aldridge	Individual	Oppose	No

Comments: I am OPPOSED to SB1201. This bill adds in more components such as resort fees, etc. that will be subject to the transient accommodations tax which in turn, will be made a permanent tax by SB 1194.

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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