

SB 500

Measure Title: RELATING TO TRANSIENT ACCOMMODATIONS.

Report Title: Transient Accommodations; Owners and Operators; Reporting Requirements

Description: Clarifies that an association's duty to report to the department of taxation is limited to the relevant information an association actually receives from a transient accommodation operator. Limits the fines imposed on an association while also holding an owner or operator of a transient accommodation accountable for failure to report.

Companion:

Package: None

Current Referral: CPN/THA, WAM

Introducer(s): BAKER, Kahele, Keith-Agaran, Nishihara, Solomon, Wakai

<u>Sort by Date</u>		Status Text
1/18/2013	S	Introduced.
1/22/2013	S	Passed First Reading.
1/22/2013	S	Referred to CPN/THA, WAM.
1/28/2013	S	The committee(s) on CPN/THA has scheduled a public hearing on 02-04-13 2:50PM in conference room 224.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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DEPARTMENT OF TAXATION

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To: The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Brickwood Galuteria, Chair
And Members of the Senate Committee on Tourism and Hawaiian Affairs

Date: Monday, February 4, 2013
Time: 2:50 P.M.
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 500, Relating to Transient Accommodations

The Department of Taxation (Department) supports the intent of S.B. 500, and offers the following information and comments for your consideration.

S.B. 500 amends Act 326, Session Laws of Hawaii 2012, by clarifying the type of information that must be provided to the Department and by modifying the penalties for non-compliance.

First, the Department recommends the bill be amended to further clarify who may act as a designated local contact for purposes of this requirement. The Department has received numerous inquiries about whether a friend or relative may act as the local contact, or whether the contact must be a licensed real estate professional or must meet some other criteria.

Second, the Department recommends changing the penalty for failure to report information under this Act from a criminal penalty to a civil fine. The Department also recommends there be further clarification regarding what activity shall be subject to the fine. Currently, it is unclear whether the fine should be imposed for the failure to report or amend, or both, and whether the fine should be imposed for the failure to report each piece of information. If the fine(s) are intended to be imposed multiple times per year, the Department suggests a cap on the amount of the total fine during a single year.

Third, the Department recommends subsection (c) be amended to require that the local contact information be submitted to the Department. Under the current subsection (b), an operator is required to submit the local contact information, as well as "relevant information" to the condo or homeowner's association, but not the Department.

Thank you for the opportunity to provide comments.



February 4, 2013

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 224
Honolulu, Hawaii 96813

RE: S.B. 500, Relating to Transient Accommodations

HEARING: Monday, February 4, 2013 @ 2:50 p.m.

Aloha Chair Baker, Vice Chair Galuteria, and Members of the Committee:

I am Dan Monck, here to testify on behalf of the Hawai'i Association of Vacation Rental Managers ("HAVRM").

HAVRM **submits comments** on S.B. 500 which seeks to clarify an association's duties, and limit the fines imposed upon an association, while also holding an owner or operator of a transient accommodation accountable for failure to report, under ACT 326, Session Laws of Hawaii 2012.

S.B. 500 serves to clarify that within ACT 326, an association's duty to report relevant information to the Department of Taxation is limited to the information the association actually receives from a transient accommodations operator. S.B. 500 also clarifies that the limit of fines that may be imposed upon an association for failure to report is not to exceed \$2500. These clarifications are both constructive and appropriate.

We would like to call the committee's attention to the a text additi on included within Section 2 and Section 2(e) of S.B. 500, "Any operator shall designate a local contact residing or having a principal place of business on the same island where the transient accommodation is located".

It appears that this language is being added to address when the local contact function is being performed by a business rather than a single individual. In the event a business is performing this local contact function, it is highly probable that the business would be providing this service to more than one owner, which would require the business to be Real Estate licensed business.

To reduce potential ambiguity and maximize clarity, we would suggest that his clause be changed to read "Any operator shall designate a local contact residing or having a principal place of business permitted by the Real Estate Commission on the same island where the transient accommodation is located.

Similarly, we would suggest that the committee augment Section 2(h) to identify that if an individual or business is to act as a local contact for more than one owner, that the individual or business needs to be licensed appropriately under HRS 467.

Mahalo for the opportunity to testify.



P.O Box 976
Honolulu, Hawaii 96808

January 29, 2013

Honorable Rosalyn H. Baker
Honorable Brickwood Galuteria
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: SB 500/SUPPORTING

Dear Chair Baker, Vice-Chair Galuteria and Committee Members:

I am a member of the Legislative Action Committee of the Community Associations Institute.

We strongly support the enactment of SB500. It clarifies that community associations have no affirmative duty to collect information on their owners who may be operating transient accommodations. This bill affirms the Governor's statement in a letter following his signature on Act 326 last year that there is no such collection obligation, only at most the obligation to report information provided to them by the transient operators or their agents and kept in the files of the association.

Act 326 also provided excessive penalties for failing to report on an activity for which an association receives no part of the economic gain. The reduction in penalty is a much fairer burden for the associations to face. For these reasons we strongly support SB500.

Respectfully submitted,

Bruce Howe

SB500

Submitted on: 2/2/2013

Testimony for CPN/THA on Feb 4, 2013 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Christian Porter	Community Association Institute	Support	Yes

Comments: Dear Chair Baker, Vice-Chair Galuteria and Committee Members: As Vice-Chair of CAI's Legislative Action Committee we join in the comments and SUPPORT submitted by Bruce Howe in his January 29, 2013 testimony submitted herein on behalf of CAI. Thank you. Chris Porter

888 Mililani Street, 2nd Floor
Honolulu, Hawaii 96813-2918
February 1, 2013

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
SENATE COMMITTEE ON TOURISM AND HAWAIIAN AFFAIRS
REGARDING SENATE BILL 500

Hearing Date : MONDAY, February 4, 2013
Time : 2:50 p.m.
Place : Conference Room 224

Chairs, Vice Chairs, and Members of the Committees,

My name is John Morris and I am testifying in strong support of Senate Bill 500. Act 326 (SLH 2012) seemed to suggest that condominium and other homeowner associations had an affirmative duty to investigate the actions of their members and determine whether those members were engaged in any taxable conduct. Condominium and other homeowner associations are primarily property maintenance organizations and should not be placed in the position of being exposed to having to investigate the conduct of their members and determine whether those members were engaged in any taxable conduct.

For that reason, the change made by SB 500 presents a far more reasonable burden on condominium and other homeowner associations - they must only report information they have actually received from their members, rather than have the responsibility of actually investigating and determining the conduct of their members. In that way, the provisions of SB 500 are consistent with the governor's message on act 326 in 2012.

Even then, it is not completely clear why condominium and other homeowner associations should have to police their members for the benefit of the Department of Taxation. Nevertheless, SB 500 is at least a step in the right direction by making the obligations of condominium and other homeowner associations more realistic given their resources and primary functions as property maintenance organizations.

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,



John A. Morris

SB500

Submitted on: 1/29/2013

Testimony for CPN/THA on Feb 4, 2013 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Gregg	Individual	Support	No

Comments: As an association manager, I would like to support this bill to limit the liability on the Association. Every year we send owner information forms to thousands of owners to collect even basic data and have a very low return rate. To penalize the Association is taking the wrong approach. Association's have not power to compel owners to submit information to them. The burden should be on the individual owners/operators. Thank-you for accepting this testimony.

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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SB500

Submitted on: 2/3/2013

Testimony for CPN/THA on Feb 4, 2013 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Matsumoto	Individual	Support	No

Comments: The changes in this bill to the current law is supported given that associations can only report what is provided by the operators, if any, and the reduction to "up to \$2,500" for not reporting is significantly more reasonable than the current fine of up to \$100K for non-reporting by non-profit associations of homeowners. Request this bill be passed.

Submitted By	Organization	Testifier Position	Present at Hearing
John Ramsey	Individual	Support	No
Elizabeth Shoup	Individual	Support	No