

STAND. COM. REP. NO. 2418

Honolulu, Hawaii

FEB 14 2014

RE: S.B. No. 2774  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Madam:

Your Committee on Tourism, to which was referred S.B.  
No. 2774 entitled:

"A BILL FOR AN ACT RELATING TO THE TAXATION OF DESTINATION  
CLUBS, "

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a tax on annual destination club dues apportioned to the State; and
- (2) Require destination club membership plan managers to register with the Department of Taxation and keep records of annual destination club dues apportioned to the State.

Your Committee received testimony in support of this measure from Exclusive Resorts. Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that destination clubs, which have a fundamentally unique business model, own various properties in multiple states or countries. These clubs provide their members, who pay membership dues, with the right to use or occupy the destination club's facilities in the various locations, although members do not own any interest in those facilities.



Your Committee further finds that the Hawaii Intermediate Court of Appeals recently ruled that destination clubs are not time share plans as defined and governed by chapter 514E, Hawaii Revised Statutes. Therefore, destination clubs are subject to the State's general excise tax under chapter 237, Hawaii Revised Statutes, but not subject to the transient accommodations tax imposed under chapter 237D, Hawaii Revised Statutes. This measure ensures that destination clubs that own facilities in Hawaii are subject to chapter 237D, Hawaii Revised Statutes, in a fair and equitable manner.

Your Committee additionally finds that amendments to the formula used to tax annual destination club dues are necessary, to ensure that the tax treatment of destination clubs is similar to other transient accommodations operators.

Accordingly, your Committee has amended this measure by:


- (1) Amending the definition of "annual destination club dues apportioned to the State" to mean the total amount of initiation and annual dues received by the destination club organization each year, divided by the number of units around the world, multiplied by the number of units in Hawaii;
- (2) Clarifying that the formula used to tax annual destination club dues apportioned to the State shall be seven percent of seventy-five percent of the annual destination club dues apportioned to any destination club unit located in the State, divided by 365, multiplied by the number of nights the accommodation is occupied during the taxable year, and requiring that the seven percent tax shall also be levied and assessed on seventy-five percent of any additional amounts received by the destination club in exchange for furnishing the destination club unit; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2774, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 2774, S.D. 1, and  
be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Tourism,




GILBERT KAHELE, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Tourism**  
**TSM**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB2174	TSM, WAM	02/12/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KAHELE, Gilbert (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)	✓			
IGE, David Y.				✓
IHARA, Jr., Les	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes