NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Tuesday, February 25, 2014
Time: 11:15 A.M.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 1594, H.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 1594, H.D. 1 to support our State's tourism industry and provides the following comments for the Committee's consideration.

H.B. 1594, H.D. 1 creates a nonrefundable income tax credit equal to ten percent of construction or renovation costs incurred for qualified hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning after January 1, 2015, but not during taxable years beginning after December 31, 2019, and further provided that the costs are pre-certified by the Department of Business, Economic Development and Tourism (DBEDT).

The House Committee on Tourism made all of the Department's suggested amendments to the previous version of this bill. The Department appreciates this consideration of its suggested amendments. The Department defers to DBEDT regarding the pre-certification requirements of subsection (e).

Thank you for the opportunity to provide comments.

HAWAI'I TOURISM AUTHORITY

Hawai'i Convention Center
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
kelepona tel 808 973 2255
kelepa'i fax 808 973 2253
kahua pa'a web hawaiitourismauthority.org

Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. 1594, H.D.1
Relating to Taxation
H.B. 2170,H.D.1
Relating to Taxation
H.B. 2169
Relating to Tourism Stimulus Incentives.

House Committee on Finance
Tuesday, February 25, 2014
11:15 a.m.
Conference Room 308

The Hawai'i Tourism Authority (HTA) supports H.B. 1594, H.D.1; H.B. 2170, H.D.1; and H.B. 2169, which propose tax credits for new and renovated hotel or resort projects.

The HTA is tasked with marketing and promoting Hawaii as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding the Hawaii visitor industry product and increasing visitor spending is the improvement and enhancement of the tourism product, which includes the physical infrastructure. As such, the HTA supports the proposals in the listed bills, which provides the private sector with investment incentives to improve hotel facilities. How the incentives are to be implemented and the amount and duration of the incentives are a matter for the Legislature to determine.

Thank you for the opportunity to offer these comments.

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: HB 1594, HD-1

INTRODUCED BY: House Committee on Tourism

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 to claim a nonrefundable hotel construction and renovation tax credit on construction or renovation costs. The credit shall be available between January 1, 2015 and December 31, 2019. The credit shall be 10% of the construction and renovation 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 for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

The tax credit shall not be available for tax years beginning after December 31, 2019.

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. Requires the taxpayer to obtain precertification of the tax credit from the department of business, economic development and tourism.

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

EFFECTIVE DATE: Tax years beginning after December 31, 2014

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 as 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 a refundable 4%, perhaps to 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.

This measure proposes to reestablish a hotel renovation tax credit. No evaluation has been done to validate the effectiveness of this credit in spurring substantial renovations of hotel resort properties. Some may argue that this credit is necessary to make their upcoming renovations pencil out, but is it 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, how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few? 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.

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.

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 had amounted to more than $500,000 to that point and going forward, both the buyer and seller were 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 reluctant 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.

Digested 2/23/14

ARDA
American Resort Development Association

February 25, 2014

TO: HOUSE COMMITTEE ON WAYS AND MEANS
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

FROM: Henry Perez, Chair
ARDA-Hawaii

RE: HB 1594 HD1

Position: Support

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and members of the Committee:

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, supports HB 1594 HD1, relating to taxation. This proposed tax credit for renovation and construction of qualified hotel facilities will help spur redevelopment of our lodging options.

Tourism is Hawaii's principal industry, with visitor expenditures estimated to be more than $15 billion in 2013, representing approximately twenty per cent of Hawaii's economy. Tourists stay at hotels, resorts and timeshares where they shop, recreate, attend events, and dine in our varied restaurants all contributing significantly to Hawaii's economy, workforce, and tax base.

ARDA-HI believes that Hawaii is uniquely positioned to further leverage the valuable economic development resource the hotel, resort, and timeshare industries provide through favorable tax policies such as those proposed in HB 1594 HD1. Our hospitality infrastructure is aging and providing a 10% renovation and construction tax credit will help the industry improve and create facilities to attract tourists and maintain Hawaii's place in the global market.

Thank you for this opportunity to testify in support of this legislation.

SAH - Subcontractors Association of Hawaii
*1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938*
Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

February 25, 2014

Testimony To: House Committee on Finance
Representative Sylvia Luke, Chair

Presented By: Tim Lyons
President

Subject: H.B. 1594, HD 1 – RELATING TO TAXATION.
H.B. 2170, HD 1 – RELATING TO TAXATION

Chair Luke and Members the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII
HAWAII FLOORING ASSOCIATION
ROOFING CONTRACTORS ASSOCIATION OF HAWAII
HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION
TILE CONTRACTORS PROMOTIONAL PROGRAM
PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII
SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII
PAINTING AND DECORATING CONTRACTORS ASSOCIATION
PACIFIC INSULATION CONTRACTORS ASSOCIATION

We support these bills.

Short and simple, our members are in need of work. Some say the economy is improving. Maybe. But, it certainly has not dwindled down to all sectors. Anything we can do to spur hotels to spend and remodel will help out hundreds of small contractors and their employees. This will benefit our members, as well as the economy.

Based on the above, we support this bill.

OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair

2/25/2014
Rm. 308, 11:15 AM

HB 1594, HD 1
Relating to Taxation

Chair Luke and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, in support of the intent of HB 1594, HD 1.

The promotion of construction activity alone is very important to any economy—it is a significant component of overall economic activity especially in a small island state such as Hawaii. Investment in physical assets in the visitor industry, however, reaps even more benefits than straight construction alone—it provides the means by which future economic activity will take place. The visitor industry cannot be competitive without an attractive, up-to-date physical plan in the form of hotels and recreational facilities.

Construction of hotels brings more revenues back into the economy, and taxes, because the hotel/tourist industry continues to bring in revenues beyond construction. Such projects result in higher hotel occupancies, visitor-days, and room rates. It is estimated that 30% of room rates goes back to employee salaries. Both the GET and TAT is paid by the industry thru the 11+ percent assessed each hotel.

However, even with the number of jobs, taxes etc. that a hotel project will provide, the bottom line is that it is very hard to get financing to either rebuild or to build a new hotel facility in the financial marketplace today. Tax credit such as these being proposed, will help a hotel project to either a rebuild or to build a new hotel.

Mahalo for allowing me to testify.

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

Comments of
Gary Slovin / Mihoko Ito
on behalf of
Wyndham Vacation Ownership

DATE: February 24, 2014

TO: Representative Sylvia Luke
Chair, Committee on Finance
Submitted Via FINtestimony@capitol.hawaii.gov

RE: **H.B. 1594, H.D.1– Relating to Taxation**
Hearing Date: Tuesday, February 25, 2014 at 11:15 a.m.
Conference Room: 308

Dear Chair Luke and Members of the Committee on Finance,

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

Wyndham **supports H.B. 1594, H.D.1,** which provides an income tax credit for hotel construction and renovation, including time share projects. The visitor industry is a very significant part of Hawaii's economy, which creates and supports many jobs for our State. Hawaii's hotel and resort infrastructure is aging, and traditional financing has not spurred necessary renovations and new construction. Providing this tax incentive will not only create new jobs, but will help create and maintain facilities that attract tourists and keep Hawaii's principal industry competitive in the global market.

Wyndham notes that the House Committee on Tourism amended the bill to remove the application of the tax credit against the TAT, to authorize the income tax credit from January 1, 2015 to December 31, 2019, and to require DBEDT to pre-certify all construction costs for which the tax credit is intended to be claimed. We support this measure as amended, and respectfully request that this Committee pass it for further consideration. Thank you for the opportunity to submit comments on this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Jennifer C. Taylor

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

LATE

The House of Representatives
The Twenty-Seventh Legislature
February 25, 2014, 11:45 a.m.
Room 308

Statement of the Hawaii Regional Council of Carpenters on
H.B 1594, HD1 **and** H.B. 2170, HD1, Relating to Taxation

The Hawaii Regional Council of Carpenters supports the intent of both Bills, while urging the following amendment to clarify what we believe to be intended in H.B. 1594:

"(f) To qualify for the income tax credit, the taxpayer shall be in compliance with all applicable federal state, and county statues, rules and regulations, including the Davis-Bacon Act and chapter l04. **Construction or renovation pursuant to this Section shall be subject to chapter 104, and the department or agency pre-certifying the tax credit shall be the contracting agency for the purposes of chapter 104.**"

Should H.B. 1594 be passed by the Committee, the above would amend an existing "(f)" in the HD1. Should H.B. 2170 be passed by the Committee, the Bill would be amended by adding the full paragraph. It is necessary to make clear that being "…in compliance with…" chapter 104 applies to the construction at hand, rather than the absence of past non-compliance.

Practices in administering chapter 104 for construction benefitting from Special Purpose Revenue Bonds may also be instructive in administering this tax credit State for transient accommodations.

Tax credits are State resources (funds due) through which construction projects are undertaken, and serve a State purpose. Pre-certification of the tax credit provides an agreement with the State prior to the start of construction, rather than falsely considering the State assistance to occur after, and separate from, the construction.

Thank you for considering the suggested amendment.