



OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

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THE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON COMMERCE & CONSUMER PROTECTION
Senator Rosalyn H Baker, Chair

COMMITTEE ON TOURISM
Senator Gilbert Kahele, Chair

3/18/2014
Rm. 229, 10:15 AM

SB 2347, SD 1
Relating to transient Accomodations

Chair Baker, Chair Kahele and Members of both Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, in opposition to HB 474, HD 1.

The language in HB 474, HD 1 purports to "correct" an issue or defect in the enactment of the new HRS Section 237D-amendments implemented under Act 326 from the 2012 legislative session which enacted the new local contact section to Chapter 237D. That defect is the alleged possibility that the language of the new Section 237D would subject certain nongovernmental entities (i.e. AOAOs and VOAs) to penalties for not providing relevant information to the DoTax that was not maintained in such entities records.

In his transmittal letter on Act 326, the Governor, along with the Department of Taxation's follow up memo restating this fact, shows that the stated purpose for the changes in the reporting obligation is nothing more than shifting the work to others.

The problem is the individual unit owners who choose to self-rent their units. It is these owners who are more likely to simply under-report or fail to report any TAT revenues. Changing Act 326 to mandate that an individual unit owner report the name and contact information of his or her "local contact" to the AOA is not going to increase TAT compliance by these owners. The owners self-renting their units who already choose to flaunt the TAT will simply continue to do so whether or not HB 474 becomes law. All this bill does is make more work for us for no reason.

If DoTax is serious about trying to go after these self-renting owners it is going to have to either devote the necessary resources to investigation and follow-up or come up with a different enforcement scheme.

Mahalo for allowing me to testify.

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HB474

Submitted on: 3/17/2014

Testimony for CPN/TSM on Mar 18, 2014 10:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Eric M. Matsumoto	Individual	Comments Only	No

Comments: The changes provided by this bill are improvements in that the reporting requirement rests primarily with the owner/operator of TAs, and having CAs only report information which is received from the owner/operator. However, from a reasonable perspective, to maintain legislatively imposed fines, even if reduced in this bill, for actions far beyond the scope of responsibilities of CAs is unjustified, especially when action required of a governmental agency is transferred to non-governmental entities. Are not CAs taxpayers, along with the homeowners living the CAs for whom they were created? Are these homeowners relegated to second class citizenry only because they live in CAs, and because homeowners not in CAs have no association for which to transfer the responsibility and fines? Reporting requirements and fines imposed on CAs should be removed entirely, or at least have the fines removed.

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I support HB 474 HD1 with the following modification:

Paragraph (e) language changed to be consistent with the rest of 237D which states that:

"Any person or entity who willfully fails to shall be subject to a fine of no more than \$2,500."

Additionally, it was the Tax Department's earlier testimony on this Bill that stated:

"The Department recommends similarly replacing the criminal penalties imposed ... with a civil fine."

Thank you for the opportunity to submit testimony on this issue.