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PRESENTATION OF THE ACTIVITY DESKS PROGRAM

TO THE HOUSE COMMITTEE ON TOURISM

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Wednesday, February 11, 2015
9:30 a.m.

TESTIMONY ON HOUSE BILL NO. 1387, RELATING TO CONSERVATION AND RESOURCES.

THE HONORABLE TOM BROWER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Carol Kramer and I am the Executive Officer for the Activity Desks Program, Department of Commerce and Consumer Affairs ("Department"). The Department thanks you for the opportunity to provide comments noting a number of concerns on House Bill No. 1387, which proposes to: (1) add a new section to require activity desks to pay a five percent surcharge on all sales of activities which shall be remitted quarterly to the Director of Finance for deposit to a special fund; and (2) allow the activity desks to deposit and withdraw the amount of the cost of activity surcharge from the client trust account.

First, Section 1 of the bill imposes a levy on activity desks to fund the conservation and resource enforcement special fund with the Department of Land and Natural Resources. The bill is unclear as to whether the activity desks will be responsible for remitting the surcharge directly to the director of finance, or whether the payment would be made to DCCA as part of its registration or oversight function. The bill is also unclear as to the mechanism to enforce the remittances and whether failure to remit would be deemed a licensing violation.

Next, the Department notes that if payment of the fees is deemed a condition of registration, those fees must correlate with the registration in a manner consistent with *Hawaii Insurers Council v. Lingle*, 120 Hawaii 51, 201 P.3d 564 (2008). The Department is concerned that the fee proposed in this bill lacks a sufficient nexus to the purpose and intent of the activity desk registration.

Further, Sections 2. and 3. would allow for the deposit and withdrawal of the activity surcharge into and from the activity desk's client trust account. This provision conflicts with Hawaii Revised Statutes, Section 486M-9, which prohibits the withdrawal from the client trust account for any purpose other than payment to the activity provider or to make refunds to the consumer. If this committee is inclined to pass this bill, the Department recommends that the surcharge fees be maintained in a separate account and not be commingled with client trust fund money.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
TOURISM**

**Wednesday, February 11, 2015
9:30 AM
State Capitol, Conference Room 312**

**In Consideration of
HOUSE BILL 1387
RELATING TO CONSERVATION AND RESOURCES**

House Bill 1387 proposes to establish a surcharge for the sale of activities by activity desks equal to five per cent of the gross proceeds or gross income received by the desk with the resulting funds deposited into the Conservation and Resources Enforcement Special Fund. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments.**

The Department's Division of Conservation and Resources Enforcement (DOCARE) is the law enforcement agency responsible for enforcing the State's natural resources laws and regulations statewide. Hawaii's natural resources are important to our residents and the many visitors who come to our islands to experience Hawaii's culture and natural beauty every year. DOCARE strives to the best of its ability to meet public expectations in providing protection of Hawaii's natural resources though these abilities have been impacted by limited funding.

The Department appreciates the Legislature's advocacy of additional funding that can be used to protect Hawaii's unique and limited natural resources.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



HB1387
RELATING TO CONSERVATION AND RESOURCES
House Committee on Tourism

February 11, 2015

9:30 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **SUPPORT** for HB1387, which will ensure that those who profit off of our natural and cultural resources contribute to their conservation and management.

Tourism is indisputably one of the major driving forces of our local economy, with millions of visitors arriving on our shores every year, to appreciate the unique natural beauty and cultural heritage of these islands. However, the volume of visitors and the cumulative impact of their activities place a significant strain on the very same natural and cultural resources that draw them to our state. The displacement of local residents from locations frequented by tourists also results in greater burdens on other natural areas less known to our visitors. Unfortunately, few mechanisms exist for those who profit from our visitors' desire to experience our natural and cultural environment, to invest directly in the maintenance of our environment.

With the clear need for greater financial investment in our watersheds, coastlines, and other natural and cultural resources, this measure thus allows the state to better ensure that our natural environment is managed and maintained for both visitors as well as residents, and for present and future generations. Activity desks, whose profits primarily derive from facilitating visitor appreciation of our natural and cultural resources, would seem a particularly appropriate and reasonable point from which to recover revenues specifically targeted at protecting these resources. In the long-term, the state's added capacity to manage and conserve our natural and cultural resources will also provide direct benefits to these businesses and their financial sustainability, by sustaining the very "products" that they market.

Therefore, the OHA urges the Committee to **PASS** HB1387. Mahalo for the opportunity to testify on this measure.