

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

To: The Honorable Tom Brower, Chair  
and Members of the House Committee on Tourism

Date: Wednesday, February 4, 2015  
Time: 9:30 A.M.  
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 825, Relating to Transient Accommodations

The Department of Taxation (Department) supports H.B. 825 and offers the following comments.

H.B. 825 creates a new chapter designed to regulate transient vacation rentals and places enforcement authority under the Department of Commerce and Consumer Affairs (DCCA). H.B. 825 also makes complementary amendments to the Tax Law.

The definition "transient vacation rental" in Section 1 states that the rental is for less than 30 days. However, under chapter 237D, HRS, Transient Accommodations Tax generally applies to rental income received for furnishing accommodations for less than 180 days. The Department believes that the definition of "transient accommodations" in chapter 237D, HRS, is very broad and enforceable. In order to avoid taxpayer confusion and any unintended tax law implications, the Department recommends that the definition of "transient vacation rental" be amended as follows:

"Transient vacation rental" means a dwelling or lodging located in the State let by an owner, operator, or lessee for compensation or fees, including club fees, for less than ~~[thirty]~~ one hundred and eighty days or less per rental. Transient vacation rental does not include any facility owned or used by a government agency or a tenement home, group home, group residence, group living arrangement, boarding house, or rooming house certified pursuant to section 445-94.

The Department supports this measure because it believes the measure effectively addresses longstanding concerns of both the Legislature and community that the State is home to many unlawful transient vacation rentals. The Department is eager to partner with DCCA and the respective counties to ensure that transient vacation rental operators are paying their general excise and transient accommodation taxes.

In particular, the Department supports the DCCA being the lead agency in regulating the transient vacation rental industry, as it is better suited to regulate the business operations of the short-term rental industry. Ensuring that operators are compliant with land use laws, rental of real property and other consumer protection laws, will help identify the taxpayer responsible for the transient rental and assist the Department in enforcing its tax compliance duties.

The Department notes that previously enacted and proposed legislation has identified the Department of Taxation as the lead agency in regulating the transient vacation rental industry. For instance, Act 326, Session Laws of Hawaii 2012, placed the Department in charge of maintaining a database of transient rental operators in condominium or homeowners associations; other legislation proposed for this session would place the Department in charge of other databases intended to help regulate the industry. While the Department is willing to enforce compliance of the applicable tax laws, the Department is unable to address many of the non-tax issues arising from short-term rental operations.

Lastly, the Department requests the bill be amended to include a new section that makes a related technical, housekeeping amendment:

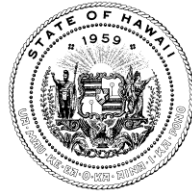
SECTION . Section 237D-16, Hawaii Revised Statutes,  
is amended by amending subsection (a) to read as  
follows:

"(a) The director of taxation shall administer  
and enforce this chapter. In respect of:

- (1) The examinations of books and records and of  
taxpayers and other persons,
- (2) Procedure and powers upon failure or refusal by a  
taxpayer to make a return or proper return, and
- (3) The general administration of this chapter,  
the director of taxation shall have all rights and

powers conferred by chapter 237 with respect to taxes thereby or thereunder imposed; and, without restriction upon these rights and powers, sections 237-8 and 237-36 to [~~237-41~~] 237-41.5 are made applicable to and with respect to the taxes, taxpayers, tax officers, and other persons, and the matters and things affected or covered by this chapter, insofar as not inconsistent with this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 237."

Thank you for the opportunity to provide comments.



DAVID Y. IGE  
GOVERNOR  
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STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON TOURISM

TWENTY-EIGHTH STATE LEGISLATURE  
REGULAR SESSION, 2015

WEDNESDAY, FEBRUARY 4, 2015  
9:30 A.M.

TESTIMONY ON HOUSE BILL NO. 825  
RELATING TO TRANSIENT ACCOMMODATIONS

TO THE HONORABLE TOM BROWER, CHAIR,  
AND TO THE HONORABLE TAKASHI OHNO, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 825, Relating to Transient Accommodations. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

House Bill No. 825 creates a new chapter for the licensure of transient vacation rentals by the Department. The bill sets forth requirements for licensure,

powers of the Director, prohibited acts, and authorizes the Director to contract with qualified persons or delegate to the counties to enforce the new Chapter.

RICO concurs with the Department's Professional and Vocational Licensing Division that §26H-6, Hawaii Revised Statutes ("HRS"), would require a sunrise analysis by the Auditor prior to the regulation of any previously unregulated profession or vocation, as proposed in House Bill No. 825.

Additionally, RICO has the following comments on the bill:

1. RICO acknowledges that oversight of transient vacation rentals has been an ongoing concern for state and county agencies. It is unclear, however, whether the licensing and enforcement provisions in House Bill No. 825 are an effective response to address issues relating to transient vacation rentals. The bill provides for the licensure of transient vacation rentals by the Department and sets forth a range of requirements and responsibilities for owners that include compliance with county ordinances and tax laws unrelated to matters within the Department's jurisdiction. Thus, what is also unclear, however, is what the impacts of adding an additional licensing requirement within the Department would have on the current oversight programs of other government entities.

2. The enforcement provisions in the bill may also be problematic. The bill as drafted allows the Director to contract with qualified persons exempt under Chapter 76, HRS, or delegate to the counties for enforcement of the new Chapter. Having two enforcement options creates confusion as to roles and responsibilities and, as a result, undermines effective enforcement.

Lack of clarity in the bill also extends to the penalties and fees provisions. For instance, the bill requires that the penalties and fees for expenses collected by a delegated county agency shall be deposited by the county agency into a newly created fund. However, the bill does not address where the penalties and fees would be deposited in the event the Director contracts with qualified persons to enforce the Chapter. In addition, it is unclear whether or when imposition of a civil penalty or a fine would apply concurrently.

Thank you for the opportunity to testify on House Bill No. 825. I will be happy to answer any questions the members of the Committee may have.



Testimony of  
**Ronald Williams**  
President and Chief Executive Officer  
Hawaii Tourism Authority  
on  
**H.B. No. 825**  
**Relating to Transient Accommodations**  
House Committee on Tourism  
Wednesday, February 4, 2015  
9:30 a.m.  
Conference Room 312

The Hawaii Tourism Authority supports the intent of H.B. No. 825, which proposes to regulate transient vacation rentals, by establishing statutory requirements for the licensing of transient vacation rentals.

The proposed bill incorporates some of the provisions of Act 326, SLH 2012, various county ordinances, and concepts from the uniform professional and vocational licensing Act, to provide for the licensing and regulation of “transient vacation rentals”, which are defined as a dwelling located in the State of Hawaii let by an owner or lessee for compensation for less than 180 days. It includes single-family dwellings, multi-family dwellings, bed and breakfasts, short-term rentals, apartments, which are further defined in various county ordinances. The definition is worded to include lodging rented thru short-term rental sites like Airbnb, which may be as simple as an air mattress in someone’s living room, or Vacation Rentals by Owner, which claims to list over 13,000 vacation rentals in Hawaii.

H.B. No. 825 requires:

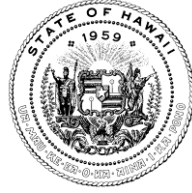
- The owners of a transient vacation rental to be licensed;
- The owner, among other requirements to post the contact information of a local contact in the unit and the rental agreement or contract, along with the license number;
- Compliance with all county ordinances regulating transient vacation rentals;
- Requires compliance with the covenants and by-laws required by a association of apartment owners, or condominium board;
- Establishment of a client trust account; and
- Establishes as prohibited acts, the unlicensed operation of a transient vacation rental, and provides that any advertisement in any form of a

transient vacation rental is *prima facie* evidence of the operation of a transient vacation rental.

H.B. 825, provides for the enforcement of the law utilizing contracted agents, or delegation of the authority to the county planning departments. It also provides for the establishment of inspection fees and provides that any penalties and fees are to be kept by the counties. This is declared to fulfill the requirements of article VIII, section 5 of the state constitution.

H.B. 825, establishes a clear and enforceable mechanism for the regulation of transient vacation rentals. For these reasons, we support the intent of this bill. We also find that HB 825 will help to provide a more consistent and favorable experience for visitors who choose to stay in transient vacations rentals and provide increased safe guards while they are in the Hawaiian Islands.





DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF THE PROFESSIONAL AND  
VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON TOURISM

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2015

Wednesday, February 4, 2015  
9:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 825, RELATING TO TRANSIENT  
ACCOMMODATIONS.**

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

My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs (“Department”). The Department appreciates the opportunity to submit testimony on House Bill No. 825, Relating to Transient Accommodations.

The purpose of House Bill No. 825 is to proscribe licensing requirements and enforcement provisions for transient vacation rentals under the Department of Commerce and Consumer Affairs.

House Bill No. 825 creates a new chapter to regulate owners of transient vacation rentals. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the State Auditor for a sunrise analysis. Referral is required to be made by concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation.

Therefore, this bill should be deferred until a sunrise analysis on this measure is conducted by the Auditor. Thank you for the opportunity to provide testimony on House Bill No. 825.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 4, 2015

**LATE**

The Honorable Tom Brewer, Chair  
and Members of the Committee on Tourism  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Brewer, and Members:

Subject: House Bill No. 825  
Relating to Transient Accommodation

Although the Department of Planning and Permitting (DPP) **supports the intent** of House Bill No. 825, we have concerns due to inconsistencies in the Bill and the lack of clarity in the enforcement section of the Bill.

The Bill as written would establish under the Department of Commerce and Consumer Affairs (DCCA) licensing requirements and enforcement provisions for transient vacation rentals. We have no problem with DCCA regulating the commercial aspects of transient vacation rentals since the Bill provides that the DCCA licenses can only be issued after DCCA receives proof of compliance with county zoning. As such, the Bill does not supersede the county land use regulation. Further, we agree that there is a need for stronger regulation of vacation rental operations and that the civil fines assessed against those who blatantly violate the code should be at a level sufficient to deter the illegal use. However, those who operate illegal vacation rentals will in all likelihood not comply with the provisions of the Bill, nor seek to obtain the DCCA license knowing that they will not be able to obtain the required zoning clearance.

Secondly, we are concerned that there are redundant processing requirements levied on those who would obtain a DCCA license in addition to the City permit processing requirement to conduct the use. Specifically, the Land Use Ordinance (LUO) states that although short-term vacation rental operations (less than 30-days) are a permitted use in the Resort District and the Resort Mixed Use Precinct of Waikiki, the

use is prohibited in all other zoning districts/precincts, unless a Nonconforming Use Certificate (NUC) is issued to the operator by the Department of Planning and Permitting (DPP). This certificate is renewed biannually at a cost of \$400 per renewal. Our concern is that if DCCA would issue a license to an operator of a transient vacation rental operation and require the license to be renewed annually and be assessed a renewal fee, this combined with the City's imposed permit renewal requirement would impose duplicate processing requirements on the applicant and would be an unfair assessment.

Finally, the Bill contains definitions that are inconsistent and contrary to definitions used by the City's LUO for similar terms. The discrepancies are as follows:

1. The definition "bed and breakfast establishment" or "bed and breakfast home" means a single-family dwelling occupied by an owner or a guest house let for consideration for less than 30 days. The reference to a guest house is conflicting with the LUO definition of "bed and breakfast home," which means a use in which overnight accommodations are provided to guests for compensation for periods less than 30 days, in the same detached dwelling as that occupied by an owner, lessee, operator or proprietor of the detached dwelling. To be consistent with the LUO the bed and breakfast use cannot be conducted separately from a guest house.
2. The definition "Dwelling" means...(3) a bed and breakfast establishment or bed and breakfast home. According to the LUO, the bed and breakfast home is conducted from the same detached dwelling as that occupied by an owner, operator, or proprietor of the detached dwelling. The bed and breakfast home is accessory to the principle use and cannot be a stand alone dwelling.
3. The penalty provisions of the Bill are unclear and should be clarified to distinguish between the \$10,000 civil penalty for each separate offense and the subsequent provision that the owner is subject to a fine of \$2,000 for each separate offense. It is also suggested that DCCA and not the counties will enforce the DCCA license and trust account requirements as the City inspectors do not have a working knowledge of these matters. The City will shortly be introducing to the City Council legislation that will establish a similar civil fine structure as the \$10,000 provision proposed in this Bill.
4. The definition "Transient" means any person who rents or uses a transient vacation rental for compensation or fees for less than thirty days. Although this is consistent with the definition provided in the LUO, it is inconsistent with the definition provided in Section 2, paragraph 2 of the proposed Bill that states:

The Honorable Tom Brewer, Chair  
and Members of the Committee on Tourism  
Hawaii House of Representatives  
Re: House Bill No. 825  
February 4, 2015  
Page 3 of 3

“Transient accommodation” means the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one hundred eighty consecutive days....”

In summary, the City and County of Honolulu is willing to participate in any discussions that would address the concerns expressed in our testimony. Thank you for this opportunity to testify on House Bill No. 825.

Very truly yours,

A handwritten signature in black ink that reads "George I. Atta". The signature is written in a cursive style with a long horizontal flourish at the end.

George I. Atta, FAICP  
Director

GIA:fmt  
HB825-TransientAccommodations-mf



**HAWAI'I LODGING & TOURISM**  
**ASSOCIATION**

**LATE**

Testimony of George Szigeti  
President & CEO  
HAWAI'I LODGING & TOURISM ASSOCIATION  
Committee on Tourism  
Hearing on February 04, 2015, 9:30 A.M.  
HB825 Relating to Transient Accommodations

Dear Chair Brower, Vice Chair Ohno, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai'i's visitor industry. Our membership includes over 150 lodging properties, representing over 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating \$14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – we represent one of Hawai'i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding House Bill 825 relating to transient accommodations, which tasks the Department of Commerce and Consumer Affairs with the licensing and enforcement of transient vacation rentals.

The Hawai'i Lodging & Tourism Association **supports** this measure, because it will help to create parity between the individually advertised vacation rentals and the rest of the lodging industry, by giving licensing and enforcement authority to the DCCA. With advances in technology and the popularization of the "sharing community", Hawai'i has seen a growing capacity of advertised individual rental units by owner. As a State our total lodging inventory is comprised of approximately 25% of these individual rental units, most of which we currently have no means of enforcing a level playing field with. We support HB825 as it aims to create necessary requirements for legitimacy such as owner contact, local contact, license number, GET license number, TAT registration number, and it also requires the compliance with county ordinances regulating transient vacation rentals. Also, the requirement to establish a client trust account and the enforcement of the law under these guidelines will bring about a better experience for both neighbors of these transient vacation rentals and visitors alike.

We urge your favorable consideration of this bill.

Thank you for this opportunity to testify.



February 4, 2015

The Honorable Tom Brower, Chair  
House Committee on Tourism  
State Capitol, Room 312  
Honolulu, Hawaii 96813

RE: H.B. 825, RELATING TO TRANSIENT ACCOMMODATIONS.

Aloha Chair Brower, Vice Chair Ohno, and Members of the Committee:

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

This letter is written in **OPPOSITION of HB 825.**

The Hawaii Association of Vacation Rental Managers, representing tourism professionals providing transient accommodations on Hawaii's four major islands, believes that the problem of illegal vacation rentals poses a serious challenge to the State's communities and its Tourism industry, and that this challenge needs to be meaningfully addressed. HB 825 fails in this regard.

In the very early 1980's, in the interests of Hawaii's growing Tourism industry, consumer protection and public safety, the State of Hawaii mandated that vacation rental firms be licensed under Hawaii's Real Estate Code.

The objective of this decision was to insure the education, knowledge, and professional standards necessary to provide rental services to Hawaii visitors, and to the owners of the Hawaii rental properties existed. This specific knowledge and standards of conduct are only insured through the Real Estate licensing process, and the associated requirement of continuing education of this license. This decision also provided consumers and property owners the protection of the Real Estate Recovery Fund in the event of an unscrupulous licensee.

Over the past 35 years, this decision's wisdom has proven tremendously successful for the State of Hawaii.

The issue of illegal rentals is a serious problem, requiring a serious solution. HB 825's proposed deregulation of the vacation rental industry in the face of 25,000 operators, many of them

illegal, is counterproductive and is not a serious solution to this problem. Adoption of this Bill, would have adverse effects upon our Tourism industry, public safety, consumer protection, Hawaii's supply of affordable housing, community tranquility, our Hotels, and our many Hawaii employees.

Hawaii needs to stand up to this problem with effective adjustment of our proven processes, not to "Throw in the Towel" and capitulate in the face of adversity.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dan Monck". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Dan Monck  
President  
Hawaii Association of Vacation Rental Managers





**LATE**

HOUSE OF REPRESENTATIVES  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

COMMITTEE ON TOURISM  
Representative Tom Brower, Chair

2/4/2015

HB 825  
Relating to Transient Accommodations

Chair Brower and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Enterprises Group in support to HB 825.

This bill would create a new HRS chapter requiring a state license (through DCCA), along with other requirements that would be needed to operate a transient vacation rental (TVR).

The various points addressed in this bill are the definition of TVRs as it relates to dwellings and lodgings, the requirement of TVRs to maintain a license listing specific ownership and locations, local contact, proof of compliance with county zoning laws, having a client trust account, listing of the GET & TAT registration numbers. There is also the requirement that the licensed TVR owner post the local contact info and include it in any contract, there is also the requirement to include the TVR license number “in any advertisements or solicitations of [the TVR] through an online rental service provider, an application or app, or other means of mass communication”, provide the address, owner and local contact info to any applicable “nongovernment entity”.

While there may be an argument against a whole new government licensure scheme, this is substantially no more or less than what traditional hotels and condotels have to go through, in fact, we have to do more in many areas such as OSHA, FLSA, etc.

Some may also argue that hotels do not want TVRs as competitors. A TVR property fills a niche in the transient accommodations market. Where some visitors may like to stay in hotels, a big family may prefer a condo, some a timeshare and some a regular house.

What this bill does is eliminates illegal TVRs and levels the playing field between TVRs and traditional transient accommodations such hotels and condotels.

We would like to add an amendment to this bill, adding language that would prohibit any “online rental service provider, an application or app, or other means of mass communication” from listing any Hawaii TVRs unless proof is provided of an existing issued license. This has been done in other jurisdictions, which had the same problems that we now face.

Outrigger supports this bill and thank you for allowing us to testify and offer amendments

Timberline Land Co. HI, LLC  
91 Midpark Crescent SE Calgary, Alberta  
Canada, T2X 1S7

February 3, 2015

Attention: State of Hawaii  
House Committee on Tourism

Re: Opposition to HB 825

We are the owner of a vacation rental property on the Big Island and are opposed to HB 825 as currently drafted and are in agreement with RBOAA's position on HB825.

This bill as drafted is arbitrary and heavy handed toward small business and will act as an impediment to investment in the State of Hawaii. As an owner of a vacation rental in the State of Hawaii we support the States need to provide protection for tourists and to recover GE and Transient Accommodation tax owed for vacation rentals but are concerned that in every legislative session another bill appears which is designed to shrink the available pool of transient rental accommodations owned by small businesses or individuals in favour of large corporately owned and managed transient accommodation by imposing unreasonable and highly burdensome compliance hurdles for small businesses.

We support reasonable, transparent and auditable methods for verifying tax compliance for all owners of transient accommodation (be they individuals, small businesses or large corporations). Unfortunately as drafted HB 825 does not appear to meet those criteria. The legislation as drafted is administratively burdensome and appears to target a specific sector of the economy with onerous compliance provisions.

It is our view that the State would be better served in adding additional compliance resources to identify and penalize those parties (large or small) who are failing to comply with the existing legislation rather than creating a greater amount of "red tape" that will only serve to frustrate investment by small business owners and create a negative investment climate in the State of Hawaii.

Mahalo for hearing my concerns on this matter.

Respectfully,  
Timberline Land Co. HI, LLC

A handwritten signature in blue ink, consisting of a large, stylized 'J' and 'L' that loops around each other.

James Long, Manager

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 9:07 AM  
To: TOUtestimony  
Cc: aurorasands@gci.net  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Meera Kohler	Individual	Oppose	No

Comments: Honorable Chair and Committee Members: As you consider HB825 today, I request that you consider the reason why such incredibly draconian conditions are being proposed on owners of transient accommodation properties. It is a well known and undisputed fact that many homeowners in the state are operating illegal, unlicensed vacation rentals out of their homes. Strong laws exist today to punish such scofflaws but the illegal operations continue unabated. The state and counties clearly are unable or unwilling to enforce existing laws and it is difficult to visualize how such enforcement can improve unless there is significant new funding provided to these departments. This bill is a vehicle which will be vigorously supported by the property management community, whose primary objective for the last several years has been to put legal single-owner transient accommodation operations out of business. Their intent is to force TA owners to utilize their services (at a handsome fee) and to reduce competition for their own managed properties. Please be aware that the requirements of this bill will likely result in hundreds, if not thousands, of property owners taking their legally licensed and operated properties off the TA market and could possibly result in an avalanche of property sales. If you look at the market for single family homes, you will see that homes in locations that permit TA rentals command significantly higher prices than comparably sized homes where TA activity is not permitted. Hawaii's tourism industry is the predominant source of funds for the Hawaiian economy. The owner-operated TA section of the industry is a very significant contributor to that sector and is a very desirable accommodation option for thousands of travelers. To deliberately attempt to stifle and squash that sector is going to inflict significant damage on Hawaii's economy. Please be aware of the ramifications of this bill. Existing laws are adequate to regulate the lawful TA sector as well as discourage illegal rental activity. The state needs to focus on enforcing existing laws, not putting us out of business in order to burnish the coffers of a single self-serving sector of the economy. Mahalo for the opportunity to submit testimony. Meera Kohler TA Owner and Operator Ma'alaea, Maui

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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brower1-Luke

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 8:42 AM  
To: TOUtestimony  
Cc: MMCGARRY@REMAX.NET  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
MICHELLE MCGARRY	Individual	Oppose	No

Comments: I OPPOSE THIS BILL BECAUSE IT IS UNFAIR AND UNCLEAR ABOUT HOW IT WILL AFFECT MY RENTAL PROPERTY WHICH I MANAGE MYSELF WITH GREAT CARE AND ATTENTION

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brower1-Luke

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 8:31 AM  
To: TOUtestimony  
Cc: milomcgarry@gmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Milo McGarry	Individual	Oppose	No

Comments: This legislation is unclear and unfair. I oppose it.

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Dear Committee Members of TOU.

Thank you for the opportunity to provide testimony on HB825.

I am a member of RBOAA and have read and share RBOAA's position on HB825 and I oppose this measure as it is currently written. I have operated my vacation rental business since 2008 and I have complied with all Hawaii's laws for my small business. I can easily provide proof of my compliance of Hawaii laws. I have a GET tax license and a TAT certificate of registration. In addition, I have a license to do business in Hawaii and am so registered with the state of Hawaii. It is reasonable that I must provide proof that I have these licenses in order to do business in Hawaii. That portion of the bill I approve.

I provide the state with not only GET and TAT taxes but also increased property taxes on my TVR zoned rental property for the benefit of Hawaii. I remind you; zoning has approved my TVR property and taxes the property accordingly. This bill may end up killing the goose that lays the golden eggs. You should be encouraging, not discouraging any small business that provides revenue for the state.

The requirement that a trust account must be set up with a bank in Hawaii is not necessary. Rent is paid to my business entity. Rent is prepaid and if a guest needs to cancel the reservation, refunds are paid according to the contract. My advertising is done with VRBO and Home Away. If I ever cheated a guest, this conduct would be reflected in the reviews and if I had unfavorable reviews, I would no longer receive future reservations. The system is self-policing.

I have hired an on-island contact person who's duty is to be there for the guest, provide keys, arrange for any maintenance issues, and be there 24-7 for the guest. What more does the government think needs to be addressed? My on-island contact even does light shopping for the guests if they request that. I feel this has been helpful for my guests. There is no need for this person to be a real estate agent who I am sure could not provide this level of personal attention to my guests.

I am concerned the HB825 will impose an excessive burden on a small business person. I do not know how Hawaii can implement the requirements without overburdening its own employees. Because of the excessive, unnecessary and counterproductive new requirements in this bill, I must respectfully OPPOSE HB825 as it is currently written.

Mahalo for the opportunity to provide testimony.

Bonnie Aitken

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 8:27 AM  
To: TOUtestimony  
Cc: annettelohman@earthlink.net  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Annette Lohman	Individual	Comments Only	No

Comments: Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. I have owned my single vacation rental property on Maui since 2001. Since that time, I have had my property managed by Condominium Rentals, Hawaii but, for the last several years, I have self-managed my condo. During the years of my ownership, I like many condo owners, have been in full compliance with the required payment of GE and TA taxes and regulations. I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals. I support and can follow reasonable procedures to provide verification/proof of my on-going compliance. I support reasonable measures to bring those who are not in compliance at this time into compliance. However, the intent of this bill is not clear. HB825 appears to have many new requirements whose purpose is not clear and that represent a significant burden to implement. The exact requirements are also very unclear. Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner such as myself, I must respectfully Oppose this Bill. Mahalo for the opportunity to provide testimony. Annette Lohman Owner of condominium at Kihei Akahi, 2531 South Kihei Rd, Kihei, HI, 96753. Residence address: 4643 Josie Avenue, Lakewood, CA 90713

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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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 8:21 AM  
To: TOUtestimony  
Cc: jcashs28@gmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy Cash	Individual	Oppose	No

Comments: "Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not clear. I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals. I support and can follow reasonable procedures to provide verification/proof of my compliance. HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear. Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill. Mahalo for the opportunity to provide testimony."

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 7:13 AM  
To: TOUtestimony  
Cc: goldsole7@gmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elen Stoops	Individual	Oppose	No

Comments: Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not clear. I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals. I support and can follow reasonable procedures to provide verification/proof of my compliance. HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear. Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully OPPOSE this Bill. Mahalo for the opportunity to provide testimony.

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Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 6:55 AM  
To: TOUtestimony  
Cc: adaeschen@yahoo.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ada Eschen	Individual	Oppose	No

Comments: Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. I am a member of RBOAA and as a member, I have read and share RBOAAs position on HB825, and I also OPPOSE this measure as it is currently written. Mahalo for the opportunity to provide testimony. Ada Eschen

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

Aloha,

My partner and I own and operate a condo unit on Maui for both our personal use and as Transient Accommodation. We comply with all Hawaii laws and submit tax revenue to the state. In fact, we took an abandoned property and renovated it, improving the property value and turning it into a small business that generates income both for ourselves, and the State.

While I think the State of Hawaii should definitely be investigating and punishing individuals who are not following the current law and who are avoiding paying tax, this bill grants powers to the investigators that are not appropriate for civilians and creates a regulatory framework that seems designed to drive small owner/operators like us out of business.

I oppose the bill because:

1. "Local contact" and "On-Island Agent" are not clearly defined. We have a local contact who provides excellent service to our guests. Any attempt to require a licensed realtor to manage our property renders our business unviable.
2. The provision that allows a license to be revoked for "any cause" is too broad and open to abuse.
3. Asking nongovernmental entities to provide the documentation required to prove that TA's are permitted is extensive and redundant, given that there are already zoning laws and policies in place.
4. The requirements for a client trust account are unclear. We already have an account dedicated to the operation of our unit. Is that sufficient? And, if the account is to be held in trust, how can a small owner access the funds needed to pay for the day-to-day running of the condo? We view our unit as a second home and the cash flow it generates is quite modest. We still have to pay condo fees, utilities, property taxes, cleaning fees, etc. If the funds are encumbered, it makes it almost impossible to run our business.
5. The GET and TAT filings requirement is unclear. Couldn't the information be shared between departments? And, since original filings are maintained by the tax department, what constitutes evidence under this clause?
6. The 3-day time frame for an audit is too short given that both my partner and I work full time. As well, where do the records need to be made available?
7. Why would the directors and investigators be exempt from Chapter 76 under the bill?
8. The provisions for access to premises run counter to our legal requirement to provide tenants with notice of intended entry.
9. The inclusion of "club fees" in gross rental seems oddly specific when I believe the intent is to include any "non-discretionary" fees.

Mahalo for your time and service to the people of Hawaii,

Joe Slabe

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 6:49 AM  
To: TOUtestimony  
Cc: marshavaughn3@att.net  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marsha Vaughn	Individual	Oppose	No

Comments: As a member of RBOAA, I have read share RBOAAs position on HB825, and I also OPPOSE this measure as it is currently written. There are many good reasons for some of the changes that are being suggested. However, this bill is unclear and presents an unfair burden on very small business owners, such as myself. In particular, as the owner of a single condo in Maui, which barely breaks even, I don't understand why I would have to set up a separate bank trust account to manage the funds. This seems like government interference on a very intrusive scale. I keep accurate and good books and pay my HI and Federal taxes religiously. There has to be a way to find those that are not following the law without penalizing those who are. Mahalo for the opportunity to provide testimony.

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 6:33 AM  
To: TOUtestimony  
Cc: mhubner@halehubner.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Matthew Hubner	Individual	Oppose	No

Comments: Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not clear. As a transient accommodation and small business owner in the State of Hawaii, I fully support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed from transient accommodation rentals. I support and can follow reasonable procedures to provide verification/proof of my compliance. However, HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear. Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill. Such provisions in this bill as those requiring me to choose a financial institution based solely in the State of Hawaii are particularly troubling and on the surface appear unconstitutional. I respectfully request that lawmakers actively work with transient accommodations groups, such as RBOAA, to develop reasonable means of enforcing current the laws. Mahalo for the opportunity to provide testimony. Matt Hubner

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 5:52 AM  
To: TOUtestimony  
Cc: kbcc106@gmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Linda Selbert	Individual	Oppose	No

Comments: Dear Legislators and Committee Members of TOU, Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not clear. I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals. I support and can follow reasonable procedures to provide verification/proof of my compliance. HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear. Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill. Mahalo for the opportunity to provide testimony

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Neal Halstead  
C312, 2531 S. Kihei Road  
Kihei, HI  
96753  
[nealhalstead@yahoo.ca](mailto:nealhalstead@yahoo.ca)

Dear Members of the House Tourism Committee:

In respect of HB825:

I acknowledge that this is an early draft of this bill, and so my comments are in the form of points to gain clarity on.

Overall, I have to **OPPOSE** this bill as I find it onerous to comply with and includes overly harsh penalties. There are estimated to be some 26,000 vacation rental properties in the state of Hawaii and this bill seems designed to close them down. As tourism is an important economic driver to Hawaii, this tactic seems misguided as tourists need accomodation.

- I support a strong framework for TA owners and operators
- I support the use of investigators to identify operators acting improperly, however, I believe the authorities granted the investigators in this bill are not reasonable for civilian investigators.
- I oppose because I feel the requirements are not fully clarified and in some case, unreasonably onerous
  - There needs to be clear definitions of “local contact” and “on-island agent” and the similarities and differences between the roles
  - There should be limits on the director’s ability to revoke a license. The current wording – “any cause” is too broad and should be more clearly defined.
  - Clarity is requested on the need for the requested documentation from the nongovernmental entity. Proof that TA’s are permitted by the nongovernmental entity should be sufficient. The requested documentation is extensive and redundant.
  - Clarity is requested on what would constitute proof of compliance with county ordinance
  - Client trust account. Clarity is requested as to whether an individual can open a trust account in Hawaii or whether this is simply intended to be a dedicated bank account for the operation of the TA.
  - Clarity is requested on the GET and TAT filings requirement. A) Does Hawaii legislation allow sharing of tax information between departments? B) Original filings, either on paper or online, are maintained by the tax department so clarity is required as to what constitutes evidence
  - Clarity is requested as to the form of the official seal and how that can be displayed on a website

- Clarity is requested on the client trust account. A) Many property managers and many online rental service providers hold the renters' funds until the guest has checked in. B) Many financial institutions providing mortgages require the owner's primary bank account to be at that institution. C) Most owners require access to the funds to pay insurance, property taxes, condo fees, cleaning fees, interest etc. Most owners are very small businessmen and the cash flow on TA properties is generally not significant.
- Audit time frame. 3 days is an extremely short time, especially if the owners are actively engaged in full time work. Clarity is requested as to where the records must be made available.
- Clarity is requested as to why the director and investigators are exempt from Chapter 76.
- Clarity is requested as to access to premises. Except in case of emergency, landlords need to provide advance notice to tenants of intended entry.
- Gross Rental should be defined to include "any non-discretionary" fees rather than limit it to "club fees"
- Clarity is requested about transient vacation rentals between 30 and 180 days and how they are considered under this bill in respect of transient accommodation

Mahalo for your time and consideration

Neal Halstead



Oppose HB825

Please do not pass HB825. Please make permanent the provisions of Act 326. As TA owners we have tried to educate ourselves with all the provisions required of Act 326 and to change laws at this time would add great confusion to those of us trying to abide by all the already existing laws.

If the State of Hawaii feels there is continued non-compliance, please enforce your already existing laws. To constantly continue to change them only adds to the difficulty of compliance.

HB825 is extremely onerous and puts burdens, excessive fines, and jeopardizes our licenses where other businesses in Hawaii are not subject to the punitive nature of this bill.

Testimony in OPPOSITION to HB825

I support lawful compliance with all of Hawaii's current laws governing Transient Accommodations. Hawaii passed Act 326 which was fully implemented recently. An aspect of compliance is education. The tax department makes significant effort to educate all tax payers so that they may comply with the laws. A publication was issued to this effect to achieve compliance. Please allow Act 326 to stand without further complications of new rules, laws and regulations.

HB825 is extremely punitive in his approach. EACH infraction for non-compliance results in revoking of our license and EACH is a fine of \$10,000. This law seems to be singling out a specific section of business, i.e. Transient Accommodation independent operators, for a level of compliance and investigatory actions that are not imposed on other Hawaii businesses. For example any other type of business in Hawaii would receive the following as a fine:

If any other type of business did not produce a license when requested: The fine is \$500. For us a \$10,000 fine.

If any other type of business were operating without obtaining a GE license - the fine is \$500 - us \$10,000.

If any other type of business were found to keep inadequate books and records -- the fine \$1,000 - us \$10,000

This gives you an example how our business of TA would be required to pay \$30,000 for what any other type of business would be required to pay \$2,000 in fines AND we would lose our license.

The Bill calls for persons and investigators to be given POWER to serve and execute warrants or issue citations to ENFORCE ANY PROVISION of this Chapter. With 3 days written notice to our on-island contact (rather than us) demand to enter our dwelling to investigate. Further it says WHENEVER they are refused they will have a judge issue a warrant to return with a police officer so that they can investigate to determine IF there is an illegal operation. If we do not agree to this, our license is revoked and we are fined \$10,000. I am sure you can understand this is a very intimidating way to conduct an investigation.

Conversely, the State of Hawaii Tax Department has a Taxpayer's Bill of Rights. It states:

*This publication explains some of your most important rights as a taxpayer.*

*Hawaii taxpayers have many rights. Some are based on laws, and others are based on our commitment to administer Hawaii's tax laws in a fair and equitable manner..*

*Taxpayer rights are at the heart of good tax administration — a pledge that the tax laws will be administered with fairness, uniformity, courtesy, and common sense. (emphasis added)*

*Privacy and confidentiality: -- Taxpayers have a right to be assured that their dealings with the Department of Taxation will be kept confidential. Taxpayers have a right to be assured that their tax returns and tax return information will not be disclosed, except as provided by law.*

*Professional and Courteous Service -- Taxpayers have a right to be free from harassment and inappropriate contact by Department of Taxation personnel in matters relating to the collection of delinquent taxes and during the course of audits.*

HB825 requires TA owners to provide DCCA with two years of tax returns and anyone investigating may ask for our financial records. Additionally, as an investigator is contacting our on-island contact and arriving at an owner's condo door demanding entrance - particularly with a police officer - what happened to confidentiality. What if

there were a transient guest on the premises. What happened to professional and courteous service and free from harassment.

What HB825 proposes is contradictory to how the Department of Taxation treats any other taxpayer and it is also not consistent with many other regulated industries application requirements and rules and procedures.

This bill will have the effect of intimidating Transient Accommodation owners when faced with investigators and police demanding entrance to their condo to conduct a search as well as the owner being threatened with onerous fines amounting to tens of thousands of dollars - they will cease operation. As always, the beneficiary of such a result would be the Property Managers.

Please enforce your existing laws that already do not allow TA owners to rent without a TAT/GE, timely payment of same, filing appropriate tax returns, having an on-island contact, posting same on contract and inside the unit and complying with all zoning and AOA compliance. These laws already exist. Please enforce what you already have and I ask that you evaluate the need for this Bill that is very inconsistent with governmental agency treatment of any other taxpayer.

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:11 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

From: Tim Duchene [mailto:timduchene@gmail.com]  
Sent: Tuesday, February 03, 2015 8:25 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Tim Duchene - 10 Wailea Ekolu Place, Wailea, HI 96753

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:11 PM  
To: TOUtestimony  
Subject: FW: We OPPOSE HB825

From: The Dachtler Family [mailto:thedachtlers@gmail.com]  
Sent: Tuesday, February 03, 2015 6:34 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: We OPPOSE HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

I am a member of RBOAA and am a member, have read share RBOAAs position on HB825, and I also OPPOSE this measure as it is currently written.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Elizabeth Daly Dachtler  
92-1051F Koio Drive  
Kapolei, HI 96707

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:10 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

From: Patricia Starkie [mailto:pualanipat@gmail.com]  
Sent: Tuesday, February 03, 2015 9:05 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony

--  
Pat Starkie

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:10 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

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From: Maureen Neilly [mailto:maureen1@live.com]  
Sent: Tuesday, February 03, 2015 7:11 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance. HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner like myself, I respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Kind regards,





brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:00 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

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From: keenan neilly [mailto:keenan@telus.net]  
Sent: Tuesday, February 03, 2015 7:26 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Cc: keenan@telus.net  
Subject: FW: Oppose HB825

Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance. HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner like myself, I respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Kind regards,

Keenan Neilly

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 2:00 PM  
To: TOUtestimony  
Subject: FW: "Oppose HB825"

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From: Jill Oudil [mailto:jill\_oudil@telus.net]  
Sent: Tuesday, February 03, 2015 8:28 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: "Oppose HB825"

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Sincerely,

Jill Oudil

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:58 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

From: christine eagleton [mailto:tinaeagle23@gmail.com]  
Sent: Tuesday, February 03, 2015 7:12 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony."

Christine

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:51 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

From: Jerry Helmey [mailto:ekoluvacationrental@gmail.com]  
Sent: Tuesday, February 03, 2015 9:15 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Jerry Helmey - 10 Wailea Ekolu Place, Wailea, HI 96753

brower1-Luke

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From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:50 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

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From: Gail Scott [mailto:ides.scott@gmail.com]  
Sent: Tuesday, February 03, 2015 7:42 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Cc: My Napili Bay  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

Gail Scott

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:46 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

---

From: Alan Eagleton [mailto:[aleagle@shaw.ca](mailto:aleagle@shaw.ca)]  
Sent: Tuesday, February 03, 2015 7:15 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony.

--

Alan C. Eagleton  
Re/Max Sabre Realty Group  
O 604-942-0606  
C 604-649-7440  
F 604-942-9533  
O 1-888-942-0606

MLS Diamond Master Medallion Club Member  
Re/Max - Lifetime Achievement Award  
Re/Max - Hall of Fame  
Re/Max - Chairman's Club  
35th in Western Canada

102-2748 Lougheed Highway  
Port Coquitlam, BC V3B 6P2  
Email [aleagle@shaw.ca](mailto:aleagle@shaw.ca)  
Web [www.alaneagleton.com](http://www.alaneagleton.com)

"WE MEASURE OUR SUCCESS WITH YOUR SATISFACTION"

brower1-Luke

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From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:45 PM  
To: TOUtestimony  
Subject: FW: HB825 - Oppose

From: akamumra@aol.com [mailto:akamumra@aol.com]  
Sent: Tuesday, February 03, 2015 5:09 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: HB825 - Oppose

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

I am a member of RBOAA and as a member, have read share RBOAAs position on HB825, and I OPPOSE this measure as it is currently written. Mahalo for the opportunity to provide testimony.

Meredith Johnson



From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:44 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

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From: Adam Leamy [mailto:adamleamy@gmail.com]  
Sent: Tuesday, February 03, 2015 8:56 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Cc: Adam Leamy Desktop  
Subject: Oppose HB825

Dear Members of the Committee:

Thank you for the opportunity to offer testimony on HB825. I oppose this bill in its current form.

My investment in the United States, in the State of Hawaii, was shaped in part by the provisions, opportunities and protections spelled out in the “North American Free Trade Agreement” (NAFTA), which began on January 1, 1994. This agreement removes most barriers to trade and investment among the United States, Canada, and Mexico. My operation of this investment is fully in keeping with the scope and purpose of that Agreement, the requirements of all appropriate local, State, and United States tax laws, and is in accordance and compliance with the “United States — Canada Income Tax Convention,” a tax treaty between our two countries signed at Washington, D.C. on September 26, 1980, and which entered into force on August 16, 1984.

On the Hawaii State Legislature webpage, HB825 is currently identified as follows:

**Measure Title:** RELATING TO TRANSIENT ACCOMMODATIONS.

**Report Title:** Department of Commerce and Consumer Affairs; Transient Vacation Rentals

**Description:** Proscribes licensing requirements and enforcement provisions for transient vacation rentals under the department of commerce and consumer affairs. Takes effect on 1/1/2016.

The bill establishes new, onerous, and both specific and unclear requirements for cross-border investors.

Part Five of NAFTA (Investment, Services, and Related Matters), at Chapter 11 (“Investment”) sets out the behaviours each party (which, in this case, means the US and Canada and their respective states and provinces) agreed to extend to each other in signing NAFTA. Hawaii is bound by the requirements of, and protections offered by, NAFTA.

While it may have been the case that among all parties to NAFTA there were, at the time of signing, laws and regulations on the books that pre-dated NAFTA, agreeing to NAFTA meant agreement to removal of most barriers to trade and investment. Moreover, when NAFTA was signed, all parties were able to identify and agree upon exceptions to NAFTA in areas of trade, commerce, and regulation where NAFTA provisions would not apply. In NAFTA, at neither Chapter 21 (“Exceptions”) or at Annexes (“Reservations”) is found any

language that would exclude Hawaii from either offering or benefitting from the full protections and benefits of NAFTA.

In its current form, HB825 fails several NAFTA tests, and I would hope that its drafters have taken all care to ensure that legislators who introduced the bill, and those who may consider it, have been apprised of their role in upholding these NAFTA provisions and protections. If that's not the case, Hawaii legislators have been misled by the bill's drafters.

In the effort to aid consideration of HB825, the NAFTA section of singular import is, as noted above, Chapter 11, which commits Hawaii to uphold the following:

**NAFTA Article 1102: National Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:
  - (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
  - (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

**Article 1103: Most-Favored-Nation Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

**Article 1104: Standard of Treatment**

Each Party shall accord to investors of another Party and to investments of investors of another Party the better of the treatment required by Articles 1102 and 1103.

**Article 1105: Minimum Standard of Treatment**

1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.
2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to

measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 1102 but for Article 1108(7)(b).

#### **Article 1106: Performance Requirements**

1. No Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory:

(a) to export a given level or percentage of goods or services;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;

(d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;

(e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;

(f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or

(g) to act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles 1102 and 1103 apply to the measure.

3. No Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:

(a) to achieve a given level or percentage of domestic content;

(b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;

(c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or

(d) to restrict sales of goods or services in its territory that such investment produces or provides to the volume or value of its exports or foreign exchange earnings.

4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.

6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in paragraph 1(b) or (c) or 3(a) or (b) shall be construed to prevent any Party from adopting or maintaining measures, including environmental measures:

(a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

- (b) necessary to protect human, animal or plant life or health; or
- (c) necessary for the conservation of living or non-living exhaustible natural resources.

Against the backdrop of the standard of “Performance Requirements” Hawaii is required to uphold under NAFTA, a read of HB825 sees it fail the NAFTA test on the most primary of grounds, that being, “[A] disguised restriction on international trade or investment.” One example of this is offered by the language in HB825 specifying where owners of transient accommodations must do their banking. This type of requirement is a violation of the NAFTA prohibition against, and investor protection from, a NAFTA party, i.e., Hawaii, requiring an investor, “to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory.”

Another example is offered by the treatment afforded by HB825 of annual licensing. Under HB825, any number of unknown variables may preclude annual licensing of a transient vacation rental, significantly jeopardizing investors’ investment in the United States. As NAFTA makes clear, in a lengthy section, excerpted here, “No Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party . . . .”

Lastly, it cannot go unnoted that it appears that the Hawaii Rental By Owner Awareness Association (RBOAA) was not consulted on the intent or content of this bill, despite several years of active and supportive efforts with Hawaii to encourage legal transient accommodations operations.

If this is the case, and RBOAA was not consulted, it’s an oversight that imbues HB825 with a cloak of the furtive, and that is, indeed, a failure in open and transparent consultation. And it gives rise to a legitimate concern that HB825 in its current form, is nothing more than a one- sided effort to see the Hawaii legislature fall offside with the NAFTA provisions and protections that benefit Hawaii investors in NAFTA countries, and that benefit NAFTA partners’ investments in Hawaii.

It is unlikely that those who drafted this bill believe that Canadians with property investments in Hawaii require notification that, under HB825 and other bills making their way through the legislature, their current investments are at risk. It is unlikely that those who drafted this bill believe that Canadians considering making property investments in Hawaii require notification that this and other bills like it, in their current forms, make future investment in Hawaii a dubious action. And it is unlikely that those who drafted this bill believe Canadians who might visit Hawaii would be better informed in considering Hawaii as a destination that there are those in Hawaii who would prefer that they do not have the accommodation choices available in other US and international tourism destinations.

I hope that in considering HB825 and other bills like it, you, your committee colleagues, and all Hawaii legislators will continue to bring balance, clarity, and NAFTA conformity to all matters legislative, and will work to amend such legislative proposals until they achieve these important standards.

With kind regards,

Adam

Sincerely,

Adam

[adamleamy@gmail.com](mailto:adamleamy@gmail.com)

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brower1-Luke

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From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:41 PM  
To: TOUtestimony  
Subject: FW: Oppose HB825

---

From: Alan Wilson [mailto:a.wilson@jwr.ca]  
Sent: Tuesday, February 03, 2015 9:24 AM  
To: Rep. Tom Brower; Rep. Takashi Ohno; Rep. Romy Cachola; Rep. Isaac W. Choy; Rep. Ken Ito;  
"mailto:repkawakami"@Capitol.hawaii.gov;  
"mailto:reponishi@Capitol.hawaii.govmailto:reptsuji@Capitol.hawaii.govmailto:repwoodson"@Capitol.hawaii.gov;  
"mailto:repmatsumoto@Capitol.hawaii.govmailto:repward"@Capitol.hawaii.gov  
Subject: Oppose HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825.

The intent of this bill is not clear.

I support the state's needs to provide protection for tourists and for the state to receive GE and TA taxes owed to the state from transient accommodation rentals.

I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear.

Because of the large number of new requirements, some of which seem to present an excessive burden on a small business owner, I must respectfully Oppose this Bill.

Mahalo for the opportunity to provide testimony."

Alan Wilson

brower1-Luke

---

From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:39 PM  
To: TOUtestimony  
Subject: FW: HB825

---

From: Island Adventures [mailto:islandadventures@cox.net]  
Sent: Tuesday, February 03, 2015 1:26 PM  
To: Rep. Tom Brower; Rep. Romy Cachola; epito@Capitol.hawaii.gov; Rep. Isaac W. Choy; Rep. Derek Kawakami; Rep. Richard Onishi; Rep. Sam Kong; Rep. James Tokioka; Rep. Clifton K. Tsuji; Rep. Justin Woodson; Rep. Lauren Matsumoto; Rep. Gene Ward  
Subject: HB825

Dear Legislators and Committee Members of TOU,

Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not entirely clear, and to avoid intended negative impacts on Hawaiian Tourism, tax revenues, properties, and property tax it is incumbent on lawmakers to be very thoughtful in enacting ANY new legislation.

Please consider that there are three distinct sets of property owners being addressed in this bill.

- 1) Owners of properties that are zoned for TVR and who are paying their taxes and complying with local regulations
- 2) Owners of properties that are zoned for TVR who ARE NOT paying their taxes and/or complying with local regulations
- 3) Owners or properties that are not zoned for TVR who are taking short term vacation rentals

In order to pass effective and beneficial legislation you must address each of these groups individually.

Lumping these 3 distinct sets of vacation rentals together is the legislative equivalent of spraying machine gun fire into a crowd and hoping to hit a few bad guys. In this case the collateral damage will be the Hawaiian economy and property owners in compliance with existing regulations. The direct to owner vacation rental market is the fastest growing segment in the travel industry and is a vibrant part of Hawaii's economy.

Mahalo for the opportunity to provide testimony.

Rob Jenneve  
Travel Agent  
Vacation Rental Owner

brower1-Luke

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From: Cynthia Nyross on behalf of Rep. Tom Brower  
Sent: Tuesday, February 03, 2015 1:39 PM  
To: TOUTestimony  
Subject: FW: Oppose HB825

---

From: Tracy Whitmore [mailto:[twhitmore@canacolenergy.com](mailto:twhitmore@canacolenergy.com)]  
Sent: Tuesday, February 03, 2015 1:35 PM  
To: Rep. Tom Brower; [repohno@capital.hawaii.gov](mailto:repohno@capital.hawaii.gov); Rep. Romy Cachola; [repchoy@capital.hawaii.gov](mailto:repchoy@capital.hawaii.gov); [repito@capital.hawaii.gov](mailto:repito@capital.hawaii.gov); [repkawakami@capital.hawaii.gov](mailto:repkawakami@capital.hawaii.gov); [reponishi@capital.hawaii.gov](mailto:reponishi@capital.hawaii.gov); [repkong@capital.hawaii.gov](mailto:repkong@capital.hawaii.gov); [reptokioka@capital.hawaii.gov](mailto:reptokioka@capital.hawaii.gov); [reptsuji@capital.hawaii.gov](mailto:reptsuji@capital.hawaii.gov); [repwoodson@capital.hawaii.gov](mailto:repwoodson@capital.hawaii.gov); [repmatsumoto@capital.hawaii.gov](mailto:repmatsumoto@capital.hawaii.gov); [repward@capital.hawaii.gov](mailto:repward@capital.hawaii.gov)  
Subject: Oppose HB825

Dear Legislators and Committee Members:

Thank you for the opportunity to provide testimony on HB825. The intent of this bill is not clear. I fully support the state's need to provide protection for tourists and for the state to receive GE and TA taxes owed to it from transient accommodation rentals. I have been renting my own properties since 2009 and I support and can follow reasonable procedures to provide verification/proof of my compliance.

HB825 appears to have many new requirements that represent a burden to implement and the exact requirements are also very unclear. Because of this I must respectfully Oppose this Bill.

Best regards,

Tracy L Whitmore  
Director of Taxation

Canacol Energy Ltd.  
Eighth Avenue Place  
4500, 525 - 8th Ave SW  
Calgary, Alberta T2P 1G1  
Canada  
D: +1.403.237.9925  
M: +1.403.921.1982  
F: +1.403.228.6419  
E: [twhitmore@canacolenergy.com](mailto:twhitmore@canacolenergy.com)





brower1-Luke

---

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 2:26 PM  
To: TOUtestimony  
Cc: kristin.maksic@gmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristin	Individual	Oppose	No

Comments: I am a member of RBOAA and as a member, have read and share RBOAAs position on HB825, and I also OPPOSE this measure as it is currently written. Mahalo for the opportunity to provide 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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

brower1-Luke

---

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 3:28 PM  
To: TOUtestimony  
Cc: idivedeep@aol.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Norbert Wolszon	Individual	Oppose	No

Comments: I strongly oppose this bill. Please enforce the current laws and punish those that violate them.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 03, 2015 5:36 PM  
To: TOUtestimony  
Cc: lbc@hawaiiantel.net  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM

**HB825**

Submitted on: 2/3/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lois crozer	Individual	Comments Only	No

Comments: I can't say I support this bill, but it is a step in the right direction. I'm happy to see we are finally taking a look at Transient Vacation Rentals and B&B's. I support managed, owner-operated, tax paying, vacation rentals where the owner is on the property and building permitting laws have not been circumvented. There is a need for short term housing in our neighborhood for those who are visiting relatives, moving into or out of homes who need temporary shelter, etc. It looks like your definition of B&B is "a single family dwelling occupied by an owner or a guest house let for consideration for less than thirty days". I'm assuming that the guest house is on the same property as the owner. It's not exactly clear here. I see your "transient vacation rental [TVR] means a dwelling or lodging located in the State let by an owner, operator, or lessee for compensation or fees, ...for less than thirty days." I am against licensing of TVR's if they are in a residential neighborhood and if the owner does not need to be on the premises. If it's in a residential neighborhood, I have concerns about your definition of local contact being "the owner or an operator, lessee, or any individual or company contracted by the owner or lesses, residing on or having a principal place of business on the same island where the transient vacation rental property is located..." I know this is what some owners have asked for, but this is going to give license to even more unscrupulous out-of-state owners just trying to make a buck from our neighborhoods. The main reason for these owners buying real estate is to make money, plain and simple. If they hire a management company, what are the criteria that company has to abide by? If they are cited for infractions, and if the penalty is they are not being allowed to do business, they can just start up under another name. It looks like there is accountability, but there isn't. Plus, this is encouraging skyrocketing real estate prices (more than they have already) with people buying multiple houses to make money off of them. This IS what will happen, just talk to any real estate person. My questions are: If you do allow for more B&B's, how many units in a house? If you do allow for TVR's in residential neighborhoods, how can you be sure people aren't just buying up neighborhoods to rent out? People are doing that now with long term rentals by buying old houses and subdividing them. Will the rule be applied that all parking must be onsite? And my big question, will the DPP rules be followed? If you allow permitting for vacation rentals, the building permits must be current and legal. Are we allowing for chopping up houses and making what was once an R-10 classification an R-5 or are we turning all our neighborhoods into condos? Our sewage system is overloaded...

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 04, 2015 12:06 AM  
To: TOUtestimony  
Cc: teresa.parsons@hawaii.edu  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM



**HB825**

Submitted on: 2/4/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Parsons	Individual	Support	No

Comments: The State MUST get a handle on the rampant abuse of those operating unlicensed TA. I support this Bill, but also encourage an ammendment to include surveillance of online advertising and marketing of TA, requiring posting of license online similar to contractors and builders. Mahalo for your indulgence to hear my comments on this important protection for residents around Hawaii neighborhoods.

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**LATE**

Oppose HB825

Mahalo for the opportunity to provide testimony.

Oppose HB825. I have read this Bill; I share RBOAAs position on HB825. I strongly OPPOSE this measure as it is currently written. for the opportunity to provide testimony."

I share the concerns of the RBOAA as follows.

- RBOAA supports a strong framework for TA owners and operators
- RBOAA supports the use of investigators to identify operators acting improperly, however, we believe the authorities granted the investigators are not reasonable for civilian investigators.
- RBOAA opposes because we feel the requirements are not fully clarified and in some case, unreasonably onerous. There needs to be clear definitions of "local contact" and "on-island agent" and the similarities and differences between the roles. There should be limits on the director's ability to revoke a license. The current wording – "any cause" is too broad and should be more clearly defined.

Clarity is requested on the need for the requested documentation from the nongovernmental entity. Proof that TA's are permitted by the nongovernmental entity should be sufficient. The requested documentation is extensive and redundant.

Clarity is requested on what would constitute proof of compliance with county ordinance

Client trust account.

Clarity is requested as to whether an individual can open a trust account or whether this is simply intended to be a dedicated bank account for the operation of the TA

Clarity is requested on the GET and TAT filings requirement.

A) Does Hawaii legislation allow sharing of tax information between departments?

B) Original filings, either on paper or online, are maintained by the tax department so clarity is required as to what constitutes evidence

Clarity is requested as to the form of the official seal and how that can be displayed on a website

Continued on page 2

Clarity is requested on the client trust account.

A) Many property managers and many online rental service providers hold the renters' funds until the guest has checked in. In order to comply, would the owner have to deposit an equal amount into the bank account until the funds are released?

B) Many financial institutions providing mortgages require the owner's primary bank account to be at that institution.

C) Most owners require access to the funds to pay insurance, property taxes, condo fees, cleaning fees, interest etc.

Most owners are very small businessmen and the cash flow on TA properties is generally not significant.

Audit time frame. 3 days is an extremely short time, especially if the owners are actively engaged in full time work.

Clarity is requested as to where the records must be made available.

Clarity is requested as to why the director and investigators are exempt from Chapter 76.

Clarity is requested as to access to premises. Except in case of emergency, landlords need to provide advance notice to tenants of intended entry.

Gross Rental should be defined to include "any non-discretionary" fees rather than limit it to "club fees"

Clarity is requested about transient vacation rentals between 30 and 180 days and how they are considered under this bill in respect of transient accommodation

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 04, 2015 8:56 AM  
To: TOUtestimony  
Cc: kenjohnson1999@hotmail.com  
Subject: Submitted testimony for HB825 on Feb 4, 2015 09:30AM



**HB825**

Submitted on: 2/4/2015

Testimony for TOU on Feb 4, 2015 09:30AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ken Johnson	Individual	Oppose	No

Comments: The idea behind HB-825 is great. Requiring a State Permit will enable to state to collect TA and GE taxes from all vacation rentals. I have been paying mine for 15 years, but about 35% of owners don't. The problem with HB-825 is that the permit does not supersede the ban on short-term renting in counties such as Oahu. This means thousands of TA tax paying accounts will be eliminated when the State starts giving the permit info to the counties. This will cost the State tens of millions in lost TA & GE taxes. Probably the opposite effect of what the bill is intended to have. Please amend HB-825 to only apply in counties that issue non-conforming use permits. That will be a big incentive for Oahu to implement its own permitting system. So please proceed carefully with this bill so as not to have Hawaii shoot itself in the economic foot and also deal itself a massive public black eye when potential visitors learn that Hawaii has started a witch hunt against unlicensed vacation rentals.

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Rental By Owner  
Awareness Association

LATE TESTIMONY

House of Representative  
The Twenty-Eighth Legislature  
Regular Session of 2015

To: Rep. Tom Brower, Chair  
Rep. Takashi Ohno, Vice Chair

**LATE**

Date: February 4, 2015

Time: 9:30 a.m.

Place: Conference Room 312  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

**RE: House Bill 825, Relating to Transient Accommodations**

Chair Brower, Vice Chair Ohno and Members of the Committee:

Rental By Owner Awareness Association (RBOAA) is a non-profit entity incorporated in Hawaii that speaks for hundreds of very small business that consists of law-abiding Hawaiians and non-Hawaiians who rent their homes out to visitors.

RBOAA would like to voice our **opposition** to H.B. No. 825.

We understand the intent of the bill is to address a number of issues facing the Cities and Counties of Hawaii, specifically noncompliance of tax payments and illegal short-term rentals.

We believe that the laws already exist for compliance and punishment of these acts. To burden the taxpayers with more agency control would not be beneficial to enforcing non compliance and will take years to get a system in place to license and monitor the owners of transient accommodations (TA).

We would be better served to allow the counties needed funds to hire a staff to investigate and regulate their current laws.

We believe there are other requirements that would better assist the communities. No. 1 is education of the current laws. No. 2, Transient Accommodation Numbers could be property specific.

In reference to a client trust account with a financial institution located in Hawaii. It is not a requirement of all business in Hawaii to have a Hawaiian bank account so why should someone offering a TA be required. Nor should it be a requirement for an owner of a property to place his or her own money in a trust account.

The operator of a transient operation is conducting business and the tax department already has audit rights for the books and records of such business therefore we see no need for someone else to audit our financial records.

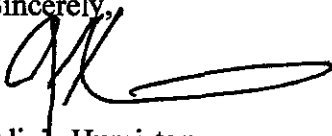
In reference to enforcement and inspection, it is the counties responsibility to determine who is legally zoned for a TA.

Quoting Mr. Alueta, Maui County Administrative Planning Officer "illegal vacation rentals, they tend to be paying their state taxes because they seem to be more afraid of the tax man then they are of the county enforcement, but we're working -- we do have a proactive enforcement that's going on and so we are trying to enforce on the illegal side." (Molokai Planning Commission Minutes, dated 6/12/14, page 4)

RBOAA opposes the \$10,000 civil penalty for each separate offense and the revocation of any license for any cause. These are harsh punishments for any small infraction.

Thank you for the opportunity to testify on this measure.

Sincerely,



Alicia Humiston  
President