

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



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

MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Tuesday, February 28, 2017

Time: 11:00 A.M.

Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 1471, H.D. 2, Relating to Taxation

The Department of Taxation (Department) provides the following comments on H.B. 1471, H.D. 2 for your consideration.

H.B. 1471, H.D. 2, requires a transient accommodations broker to register as a tax collection agent on behalf of its operators and plan managers. The bill has a defective effective date of July 1, 2117, applies to taxable years beginning after December 31, 2017, and sunsets on December 31, 2022. The following is a summary of key provisions of the bill:

#### Duties as Tax Collection Agent

- All transient accommodations brokers will be required to register as tax collection agents
- The registered agent will be required to report, collect, and pay general excise tax and transient accommodations tax on behalf of all of its operators and plan managers for transient accommodations booked directly through the registered agent.
- The registered agent's operators and plan managers will be deemed to be licensed under chapters 237 and 237D, Hawaii Revised Statutes (HRS), for business activities conducted directly through the broker.
- The registered agent will assume all obligations, rights, and responsibilities imposed on operators and plan managers for business activities conducted directly through the registered agent and will be personally liable for all taxes due and collected.

#### Reporting

- The Director of Taxation may require the registered agent to provide, with the annual return, a list of the federal tax identification numbers of all operators to whom the registered agent provided information returns under the Internal Revenue Code.
- The registered agent shall provide the names or addresses of its operators to the

- Director of Taxation when requested through an administrative subpoena or upon waiver by the operator.
- The registered agent shall report annually to the Director of Taxation, on an aggregate basis, the total number of operators and plan managers by county on whose behalf the registered agent collected and remitted taxes and the total taxes by county collected and remitted.

#### Disclosure

- All returns and return information shall be confidential, except that the names and addresses provided by a registered agent shall be disclosed to a county tax official for the limited purpose of real property tax administration.

#### Compliance with Land Use Laws

- Prior to advertising a property, the registered agent shall (1) notify the operator that the property is required to be in compliance with applicable land use laws and (2) require the operator to attest that the property is in compliance with applicable land use laws.

#### Surcharge on the transient accommodations tax (TAT)

- A surcharge will be imposed on transient accommodation brokers at an unspecified rate.

#### Allocation of Revenue

- Section 237D-6.5, HRS, is amended by allocating \$4,000,000 to the counties for compliance and enforcement of county ordinances relating to transient vacation rentals.

#### Act 204, Session Laws of Hawaii 2014

- Section 6 of the bill provides that a transient accommodation broker shall remain subject to the conditions of Act 204, Session Laws of Hawaii 2015, which subjects brokers to fines for failing to include an operator's registration identification number in any advertisement, unless it enters into a tax collection agreement.

First, the Department notes that, in general, permitting transient accommodations brokers to act as tax collection agents, similar to how multi-level marketing organizations may act as tax collection agents on behalf of their direct sellers, pursuant to section 237-9(e), HRS, eases the burden of reporting and remitting taxes for taxpayers and promotes efficient tax collection by easing the burden of processing, auditing, and collecting from individual taxpayers.

Second, the Department notes that there may be enforcement issues with requiring all transient accommodations brokers to register as tax collection agents. Even if a broker advertises or books transient accommodations in the State, the broker cannot be required to collect and remit taxes if the broker does not have nexus with the State, as required by the Commerce Clause of the U.S. Constitution. Similarly, the surcharge imposed in Section 3 of the

bill cannot be imposed or enforced against brokers who do not have nexus with the State.

Third, the Department notes that although this bill requires brokers to register as tax collection agents with the Department, the bill also provides that the Department may deny an application for registration for cause, including any violation of the tax laws, violation of a prior tax collection agreement, or failure to meet minimum criteria for registration. Additionally, the bill allows the Department to cancel a registration for cause and allows a broker to cancel a registration for any reason. Except in cases where a broker ceases doing business in the State, the provisions allowing denial and cancellation of registration are contrary to the provision requiring registration.

Fourth, the Department notes that in Section 2 of this bill, although section 237-\_\_\_ (f)(2) allows return information provided by registered agents to be disclosed to county tax officials, no such exception is made in section 237-34, HRS, which makes it a class C felony for an officer or employee of the State to disclose tax return information to any person not listed in subsection (b). The Department, therefore suggests that section 237-34(b), HRS, be amended by adding a new paragraph (14) as follows:

(14) With respect to returns and the names and addresses provided by a registered transient accommodations broker tax collection agent, a duly authorized county tax official for the limited purpose of real property tax administration.

Similarly, the Department suggests amending section 237D-13(a), HRS, by adding a new paragraph (13) as follows:

(13) With respect to returns and the names and addresses provided by a registered transient accommodations broker tax collection agent, a duly authorized county tax official for the limited purpose of real property tax administration.

Fifth, the Department recommends a technical amendment in subsection (g) of Sections 2 and 3 of the bill as follows:

The director may require [~~the~~] a transient accommodations broker [~~tax collection agent~~], as a condition of [~~obtaining a license,~~] registering as a tax collection agent, to furnish with an annual return, a list including the federal tax identification number of all operators and plan managers for the taxable year to whom the transient

accommodations broker tax collection agent has provided information returns required under the Internal Revenue Code, and any other information that is relevant to ensure proper payment of taxes under title 14.

Sixth, Section 6 of the bill, which provides that a transient accommodation broker shall remain subject to the conditions of Act 204, Session Laws of Hawaii 2015, which subjects brokers to fines for failing to include an operator's registration identification number in any advertisement, unless it enters into a tax collection agreement, may violate the federal Communications Decency Act of 1996. The Department defers to the Department of the Attorney General on this issue.

Finally, the Department notes that this bill will require form, instruction, and system changes and therefore requests that the effective date is amended to apply to tax years beginning after December 31, 2018.

Thank you for the opportunity to provide comments.



**HB1471 HD2**  
**RELATING TO TAXATION**  
House Committee on Finance

February 28, 2017

11:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB1471 HD2. Although HB1471 HD2 may help the state capture additional tax revenue, it may also frustrate the counties ability to meaningfully enforce pre-existing regulations on short-term vacation rentals.

Unfortunately, notwithstanding county land use ordinances that prohibit their operation in certain areas, illegal short term vacation rentals have proliferated throughout the state. Such vacation rentals may have currently removed and may in the future remove much-needed units from the residential rental market, which can exacerbate rising housing costs that already exceeds what many state residents are able to afford.<sup>1</sup> OHA notes, Native Hawaiians are particularly disadvantaged by land uses that contribute to increased housing costs and rental housing shortages.<sup>2</sup> **Without meaningful enforcement of county land use laws, the potential impacts of illegal short term vacation rentals on the long-term housing market will remain unaddressed.**

**As drafted, HB1471 HD2 may, albeit unintentionally, frustrate the counties ability to meaningfully enforce county land use laws relating to vacation rentals, while**

---

<sup>1</sup> For example, a recent study by the Department of Business, Economic Development & Tourism (DBEDT) indicates that the recent increase in demand for single family vacation rentals has already contributed to the overall increase in demand for housing units in our islands.<sup>1</sup> An increase in short term vacation rental activity has also correlated with major drops in available residential rental listings, including those for increasingly rare single family units. Notably, the Hawai'i Tourism Authority report found 22,238 individually advertised units each day in Hawai'i for 2014—units that could otherwise provide residential housing for 117,607 individuals. See INDIVIDUALLY ADVERTISED UNITS IN HAWAI'I (VACATION RENTALS) DECEMBER 2014, available at

[http://www.hawaiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individual%20Advertised%20Units%20in%20Hawaii%20\(Vacation%20Rentals\).pdf](http://www.hawaiitourismauthority.org/default/assets/File/research/accommodations%20studies/Individual%20Advertised%20Units%20in%20Hawaii%20(Vacation%20Rentals).pdf).

<sup>2</sup> Native Hawaiians in particular substantially rely on the rental market. Native Hawaiian homeownership rate is significantly lower than the state average and must rely substantially on the rental housing market. See OFFICE OF HAWAIIAN AFFAIRS, OHA DATA BOOK HOUSING TENURE BY RACE-ETHNICITY IN HAWAI'I 2014, available at <http://www.ohadatabook.com/T02-131-15u.pdf>. This figure includes 8,329 DHHL residential lease "owner-occupied" property units. DHHL ANNUAL REPORT 2014, p. 48, available at <http://dhhl.hawaii.gov/wp-content/uploads/2011/11/DHHL-Annual-Report-2014-Web.pdf>. For non-DHHL properties, the Native Hawaiian homeownership rate is therefore 41.2%, 15.5 percentage points below the statewide rate.

**penalizing individual families that may be unaware of existing county laws.** Instead of requiring proof of compliance or assistance with compliance, HB1471 HD2 would only require that a broker notify a vacation rental operator of the applicable county land use laws as part of the acceptance of the terms of service of the website. **As such, the broker absolves themselves of any responsibility, while leaving individual operators liable for any fines they may incur for violations of county land-use laws.** Additionally, as the broker receives up to 15% of the total rental transaction, the broker is incentivized to continue to allow illegal or unknowingly illegal operators to rent and remit taxes, while knowing it is only the individual operators who will face fines for unpermitted use. HB1471 HD2 also does not include important enforcement provisions that might assist the counties in identifying those who post illegal listings or listings that commercialize public land and resources.

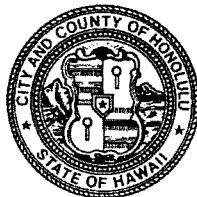
As it considers this measure, OHA respectfully urges the committee to include more robust enforcement language that will not place the entire burden of enforcement, as well as fines for unpermitted operation, only on individual operators who may be uninformed. OHA notes that HB1470, included language that would allow the state to receive revenue, while also ensuring brokers bear some responsibility for the listings and assisting county enforcement. OHA urges the state to better facilitate the meaningful enforcement of county land use regulations and to mitigate the impacts of unlawful short term vacation rentals on our beneficiaries and others seeking housing in our islands.

Mahalo for the opportunity to testify on this measure.

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

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
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



KATHY K. SOKUGAWA  
ACTING DIRECTOR  
  
TIMOTHY F. T. HIU  
ACTING DEPUTY DIRECTOR

February 28, 2017

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:

Subject: House Bill No. 1471, HD 2  
Relating to Taxation

The Department of Planning and Permitting (DPP) **opposes, as drafted**, House Bill No. 1471, HD 2, which would require transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services.

We do not take a position on the means of collecting the taxes, and we support the Bill's allocation of \$1 million of the Transient Accommodations Tax revenues to each county to help enforce transient vacation rental ordinances, but we have concerns with the Bill as written.

With the popularity of transient accommodations websites, the number of transient vacation rental operators has ballooned. A report by the Hawaii Tourism Authority in 2014 showed that there were more than 4,400 units advertised on these online sites and we believe an overwhelming majority is operating without a valid permit. The DPP is charged with enforcing the county's transient vacation rental law, and we are finding it increasingly difficult to keep up with the number of illegal vacation rentals on the island.

The DPP's main concern with this Bill is the provision in Section 2, Paragraph (i), (1) and (2), which would require the operator or plan manager of the property being used for transient accommodations to attest that "the subject property is in compliance with applicable land use laws by using the following language: 'By accepting the Terms of Service, I agree and attest that I have reviewed all applicable laws and regulations and that my listing is in compliance.'"

The Honorable Sylvia Luke, Chair  
and Members of the Committee on Finance  
Hawaii House of Representatives  
House Bill No. 1471, HD 2  
February 28, 2017  
Page 2

As written, the operator or plan manager is left to basically self-certify, with no provisions for verification that he or she is in compliance with county laws. Our recommendation is that the operator or plan manager be required to obtain proof of compliance in the form of a certification document issued by the county's land use regulator. The certification can be in the form of a certificate or simply a letter of verification with a seal of the appropriate county agency. We would be happy to work with the State and registered hosting platforms in setting up this verification process.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written in a cursive style.

Kathy Sokugawa  
Acting Director



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Transient Accommodations Brokers as Tax Collection Agents

**BILL NUMBER:** HB 1471, HD-2

**INTRODUCED BY:** House Committee on Consumer Protection & Commerce

**EXECUTIVE SUMMARY:** Requires a transient accommodations broker to serve as a collection agent for general excise and transient accommodations taxes. This type of arrangement would probably enhance collection of taxes because of the difficulty of policing individual owners. A mandatory arrangement may run afoul of constitutional requirements and for that reason might not produce the desired results. For this program to work, brokers need to have a reason to cooperate with the State, and hosts need to have a reason to sign up with a registered broker.

**SYNOPSIS:** Adds a new section each to HRS chapter 237 and chapter 237D requiring the director of taxation to register transient accommodations broker as a tax collection agent on behalf of all of its operators and plan managers. Defines “operator,” “plan manager,” and “transient accommodations broker” the same as in the TAT law.

Upon successful registration as a tax collection agent, the broker shall report, and collect, and pay over the tax due on behalf of all of its operators and plan managers as it relates to activity booked through the broker. Registration does not relieve the broker from any of its own tax obligations, and the operators and plan managers are not protected as to any business activity other than that booked through the broker.

A registered broker shall be issued separate licenses with respect to taxes payable on behalf of its operators and plan managers in its capacity as a registered transient accommodations broker tax collection agent and, if applicable, with respect to any taxes payable under this chapter for its own business activities. The broker is to file periodic returns reporting income and exemptions as collection agent separately from its own business activity.

A broker may cancel its registration by delivering a written cancellation notice to the department and its customers; the cancellation will be effective no earlier than 90 days after delivery of the notice. The department may also cancel a registration for any cause, including violations of the tax laws or a breach of the registration agreement.

Provides that returns filed on behalf of an operator are confidential tax returns, except that they shall be disclosed to a duly authorized county tax official for the limited purpose of real property tax administration.

All brokers shall (1) prior to advertising on behalf of an operator or plan manager, notify the operator or plan manager that the subject property is required to be in compliance with applicable land use laws prior to retaining the services of the broker; and (2) require the operator

or plan manager to attest that the subject property is in compliance with applicable land use laws by using the following language: "By accepting the Terms of Service, I agree and attest that I have reviewed all applicable laws and regulations and that my listing is in compliance."

Amends HRS section 237-30.5, relating to rental collection agents, and section 237D-8.5, relating to collecting TAT for the same residents, to clarify that those provisions do not apply to registered transient accommodation brokers.

Adds a new section to chapter 237D imposing a surcharge tax on transient accommodations brokers equal to \_\_\_% of the gross proceeds derived from the rental or rental proceeds realized by the broker's operators and plan managers for the furnishing of transient accommodations.

Makes a conforming amendment to HRS section 237D-4(c).

Amends HRS section 237D-6.5 to allocate an additional \$1 million to each county for compliance and enforcement of the tax.

EFFECTIVE DATE: Takes effect on July 1, 2117, and applies to taxable years beginning after December 31, 2017. Repealed on December 31, 2022.

STAFF COMMENTS: Act 143, SLH 1998, amended HRS section 237-9 to allow multi-level marketing companies to act as agents to collect and pay over GET on behalf of their independent entrepreneurs. At the time, it was considered beneficial for the marketing companies to collect and pay over tax as opposed to having the Department of Taxation chase down a myriad of independent owners with varying degrees of tax compliance among them.

This bill presents an opportunity for the same logic and policy considerations to apply to transient vacation rental (TVR) activity operating through transient accommodation brokers such as AirBnB, Flipkey, Homeaway, and VRBO, except that the stakes may be a little higher because TAT as well as GET is being collected. This bill would appear to be necessary or desirable to enhance the Department's collection ability given the limited resources available for all of state government including the Department.

TVR activity is a business and the dollars earned in that business are subject to Hawaii state taxes. Specifically, General Excise Tax (GET) and Transient Accommodations Tax (TAT) both apply, so those hosts that are in this business need to register appropriately and pay these taxes. But alas, not everyone does. So, the bill proposes to require the broker to register with the Department of Taxation and to remit the GET and TAT to the State on behalf of the hosts. Once registered, any time a host earns money on the broker's platform, the broker will pay the taxes and will pay over the balance to the host. The concept is like withholding, with which those of us who receive a paycheck are quite familiar: we work for an employer, the employer pays us our wages, but the employer deducts some taxes and pays them to the Department of Taxation and IRS.

A measure allowing voluntary registration of brokers, HB 1850 (2016), passed last year but was vetoed by Governor Ige. The principal objection concerns county-level restrictions on property use. Some TVR activity violates county zoning laws. Some counties, as well as neighboring

residents, see withholding as described in this bill as enabling hosts to hide illegal activities from county law enforcement. Some people have gone further. They blame TVR hosts for wrecking the sanctity of neighborhoods with an unending stream of tourists or for yanking housing units off the market in the name of greed, resulting in stratospheric housing prices that are yet another crippling blow to hardworking families struggling to make ends meet. Then, they turn to the brokers and demand that the brokers stop encouraging and facilitating such illegal, anti-societal, and morally depraved activity.

Requiring brokers to act as withholding agents of course raises the issue of whether the State is sticking its nose too deeply in a private industry. In addition, constitutional concerns are raised.

The United States Constitution has been interpreted as providing two limits on the states' powers to tax. These limits come from at least two places: first, the Due Process Clause, requiring a person to have "minimum contacts" with a state before that state is allowed to exercise police powers, including the power to tax, against that person; and second, the Commerce Clause, where the Supreme Court held in *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977), that if the Congress does not otherwise define the threshold for taxability, state tax may not be imposed upon a person unless there is "substantial nexus" with that person. Substantial nexus is more than minimum contacts, and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), appears to stand for the proposition that some physical presence is needed to establish substantial nexus.

Many transient accommodations brokers can do their work without a physical presence in Hawaii, and may be able to legitimately thumb their noses at the requirements to register, collect and pay over tax, and pay the proposed surcharge tax on brokers. Brokers who have physical presence in Hawaii and are exposed to these requirements will be motivated to get out of the State, for if they don't their operators and plan managers can easily take their business elsewhere to a broker that has no presence. The result will be what we have now, namely operators and plan managers who exhibit varying degrees of tax compliance, and brokers who won't be able to help the State collect taxes that are legitimately owed.

For this program to work, brokers need to have a reason to cooperate with the State, and hosts need to have a reason to sign up with a registered broker.



House Committee on Finance

Rep. Sylvia Luke , Chair; Rep. Ty J.K. Cullen , Vice Chair

Romy M. Cachola

Nicole E. Lowen

Isaac W. Choy

Nadine K. Nakamura

Lynn DeCoite

Sean Quinlan

Cedric Asuega Gates

James Kunane Tokioka

Daniel Holt

Kyle T. Yamashita

Jarrett Keohokalole

Andria P.L. Tupola

Bertrand Kobayashi

Gene Ward

Matthew S. LoPrest

Tuesday, February 28, 2017 11:00am

House Conference Room 308 State Capitol

**TESTIMONY ON BEHALF OF AIRBNB RE: [HB1471 HD 2](#)**

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

I write in support of HB1471 HD 2

This bill is similar to that which was adopted by the Legislature last year as HB1850 but vetoed by the Governor, that will require Airbnb and similar platforms to collect and remit Transient Accommodations Tax (TAT) and General Excise Tax (GET) on behalf of our host communities. However, HB 1471 includes a number of notable differences from last year's bill including the addition of an allocation of tax proceeds going to County government for the purposes of enforcing local land use regulations, and the creation of a surcharge directed to the rental housing revolving fund. Most notably, the bill makes the collection of TAT and GET tax by platforms mandatory, significantly increasing the amount of tax revenue the bill will generate and bringing into compliance all online listings with the requirement to pay taxes.

Hawaii has a vibrant Airbnb community of responsible hosts and guests. Home sharing is an increasingly popular accommodations option, and the significant benefits it provides to both local businesses and thousands of local residents by generating supplemental income highlight the importance of this emerging economic sector. Airbnb's mission is to democratize travel by allowing anyone to belong anywhere. We make this happen through our people-to-people platform that connects hosts and guests in 191 countries and 50,000 cities around the world.

Currently, Airbnb and similar platforms are neither allowed nor legally obligated to collect and remit these taxes on behalf of their hosts in Hawaii. Airbnb voluntarily stepped forward to support this legislation. The current iteration of the bill makes the collection of the taxes mandatory for all platforms instead of voluntary.

HB1471 requires Airbnb, and all platforms, to ensure full tax compliance and maximum tax revenue collection on all bookings conducted through our platform. It would also simplify administration for both the Department of Taxation and our host community and reduce the State of Hawaii's enforcement burden in ensuring tax compliance. Airbnb first began collecting and remitting hotel and tourist taxes from guests on behalf of hosts in San Francisco and Portland in 2014. We are now successfully collecting and remitting taxes in more than 220 jurisdictions across the world, including San Francisco, Los Angeles, Amsterdam, Chicago, Malibu, Oakland, Washington D.C., Palo Alto, Paris, Philadelphia, San Diego, San Jose, and nearly 20 states, including Washington, Colorado, Oregon, Connecticut, North and South Carolina, Vermont, Florida, and Arizona. Attached is a study we conducted this year that discusses how much revenue we have generated globally for jurisdictions with whom we have reached an agreement.

When we were before the Legislature last year, we noted that if we had been allowed to collect taxes on behalf of our host community we would have remitted to the state approximately \$15 million in 2015. Today I can share with you that if we had been allowed to collect taxes on behalf of our host community in 2016, we would have remitted \$26 million. Combined over the year two period, we would have remitted more than \$40 million to Hawaii. Because this bill makes the payment of taxes mandatory among all platforms, it is estimated that this figure collectively could reach \$100 million per year in new revenue, or more. Airbnb wants to pay taxes, we believe that there is value to this to all parties, and we hope you will agree with us and adopt legislation allowing us to do it this year.

I would also like to share an additional statistic with the committee that is worth noting. While use of Airbnb in Hawaii is robust, it is also a favorite of Hawaii residents. In 2016 alone, Hawaii residents used Airbnb to travel more than 110,000 times including more than 11,000 inter-island trips within the state. Put simply, Hawaii residents like to use Airbnb, both to host guests and to travel themselves.

This bill as noted previously will also direct revenue to support the creation of affordable housing. If it is the committee's desire to allocate revenue for this purpose, , we would like for the Committee to consider a simpler approach to achieve this goal than the surcharge proposed in HD 2. This approach would be to direct a portion of the revenues remitted by transient accommodations brokers to the fund. The proposed surcharge raises issues related to the Internet Tax Freedom Act, a federal law that essentially prohibits taxing things online differently than they are taxed offline. The current draft also creates confusion regarding the base that is subject to the surcharge.

We also raise, for the Committee's consideration, that HD 2 has made collection mandatory by transient accommodations brokers as has been addressed above, while also preserving language related to a voluntary collection system as proposed in previous drafts, potentially creating internal inconsistencies and confusion. We suspect that was not the drafter's intent and wanted to bring to the committee's attention if it should desire to clarify the language.

Let me transition to some concerns that critics raised about short term rentals and the potential impact on housing affordability. We commissioned a housing impact study by respected Hawaii housing analyst Paul Ricky Cassidy. The study showed that Airbnb has no material impact on the Hawaii housing market, representing only 1.5% of the Hawaii housing stock. Of all the “entire home” listings on Airbnb, the majority (61%) are rented fewer than 60 days a year, and the vast majority (88%) are rented fewer than 180 days a year.<sup>1</sup> This indicates most of these units are otherwise used by owners and would not be on the long term market, with or without Airbnb. In fact, the study showed that for many Hawaii residents, Airbnb is a valuable tool that makes their housing *more* affordable. Additionally, 65% percent of Hawaii hosts have told us that the additional income they get from hosting helps them stay in their homes and 21% said that it helped them to avoid eviction or foreclosure. The average host earned \$9,000 last year, the equivalent of a 12% raise to the median household income in Hawaii. The fastest growing demographic of Hawaii hosts is women over 60. Local businesses and jobs are also supported by Airbnb visitors. Joe Toy, in a study conducted last year, found that Airbnb visitors spent more per day than guests of any other accommodations category in Hawaii, contributing a total of \$353 million to the state economy in 2015.

Next, during the last session opponents alleged that the legislation would not ensure proper accountability. The Department of Taxation (DOTAX) addressed this issue by stating the following: “Auditing [under the bill] is actually made simpler as there is only one source to request documentation to initiate an audit.” Under HB 1471, Airbnb would register as the single taxpayer, assuming full responsibility with respect to applicable taxes on its platform and using its tax ID number to meet Act 204’s posting requirement. The bill would actually give greater transparency and create new enforcement tools for the state it would not otherwise have. For example, it gives DOTAX authority to obtain names and federal tax ID numbers of platform users, as well as the ability to audit the platform and administratively subpoena other user information for enforcement purposes.

Others have alleged this bill would somehow shield users from county land use enforcement, thus interfering with the intent of Act 204. This is patently false. HB1471 is a tax bill designed to allow Airbnb to help its community pay its fair share of taxes. The legislative history of Act 204 demonstrates that the purpose of the law was ensuring tax assessment and payment, not DOTAX’s enforcement of county land use laws. Tax payment does not impact a user’s county land use liability. Moreover, taxpayer information is already confidential under state law.

As we move forward, we are 100% committed to working with local leaders on common sense rules for home sharing. We are confident that we can work together on sensible and modern regulations that reflect the new economy, facilitate compliance, and make local communities stronger.

---

<sup>1</sup> The study’s findings are specific only to Airbnb because Airbnb could only provide Mr. Cassidy with access to its own data.

We remain committed to partner with the state and local governments. We are hopeful that you will adopt HB1471 that will allow our hosts to pay their fair share of taxes. At the same time we are committed to working with all interested parties to make home sharing work for local communities and our hosts to the benefit of everyone.

Regards,

A handwritten signature in black ink, appearing to read 'Matt Middlebrook', with a long horizontal flourish extending to the right.

Matt Middlebrook  
Head of Public Policy  
Hawaii



# Airbnb: Generating \$2.5 Billion in Potential Tax Revenue for America's Cities





## Introduction

---

Airbnb is a people-to-people platform—of the people, by the people and for the people—that was created during the Great Recession to help people around the world use what is typically their greatest expense, their home, to generate supplemental income. Today, Airbnb is the world’s leading community-driven hospitality company, with over 3 million listings in 50,000 cities and more than 190 countries across the globe, and our online platform is:

- Democratizing travel by helping everyday people visit places they might have missed, including places they otherwise could not afford.
- Democratizing capitalism by expanding the economic pie for ordinary people, allowing them to use their home to help pay for costs like food, rent, and their children’s education.
- Democratizing revenue by generating new tax dollars for governments all over the world.

In 2015, Airbnb launched the Community Compact, a document based on our core principles that guides how we partner with cities. In 2016, we released the new Airbnb Policy Tool Chest, a resource informed by hundreds of successful discussions with local policymakers for use by other governments that likewise want to smartly regulate the sharing economy.

In early 2016, our team visited the U.S. Conference of Mayors annual meeting and urged communities to work with us to collect more tax revenue from the Airbnb community. As Airbnb’s Head of Global Policy and Communications Chris Lehane said at that meeting:



**Read my lips: we want to pay taxes.”**

Since that time, we have continued to expand our programs to collect and remit hotel, occupancy, and tourist taxes on behalf of our hosts and guests. This report updates information we released in 2016 and offers new data regarding the tax revenue opportunity Airbnb presents to cities in the United States, while demonstrating how Airbnb strengthens city economies. The report also discusses how cities that are already collecting this tax revenue are using it to support a range of progressive programs and services.

## Summary of key findings

---

Airbnb has already remitted \$175 million in hotel, tourist and occupancy taxes to more than 220 cities and communities around the world—up from \$42.6 million in taxes remitted in 20 cities as of our report in January 2016.

By partnering with Airbnb to create clear tax rules for home sharing, the 50 largest cities in the United States could have collected a total of \$250 million in hotel, tourist and occupancy taxes from Airbnb in 2016—up from \$200 million estimated for 2015 due to the growth of our community in these cities.

The Airbnb community is growing incredibly fast, and more and more travelers are using Airbnb to see the world. But even in the extremely unlikely event that the Airbnb community remains static at its current size, this would represent a total of \$2.5 billion over 10 years in tax revenue for the 50 largest cities in the United States.

Communities that are collecting tax revenue from the Airbnb community are using the resources to support a range of progressive programs and services, including aid for the homeless and new housing construction.

## The Airbnb community strengthens cities

---

Across the United States, the Airbnb community is making cities stronger and generating much needed revenue for families and communities. While governments are debating the best way to support the middle class, Airbnb is generating real money for families right now. The typical host in the United States earns \$6,100 every year. There's no other government or private sector program we know of that's putting a 14 percent raise in middle-class families' pockets.

Most hosts earn this significant economic boost by occasionally sharing the home in which they live. The typical host in the United States shares their listing 39 days per year. Their guests are visiting neighborhoods and local businesses that haven't benefited from tourism in the past. Historically underserved neighborhoods are among the fastest growing part of our host community. In New York City's 50 majority-minority zip codes, we have seen year-over-year growth of over 70 percent and in most cities, over 75 percent of Airbnb listings are outside the main hotel districts.

Travelers go on to spend their dollars in these communities: typically, up to 50 percent of Airbnb guest spending occurs in the neighborhoods where they stay. For example, the Airbnb community generated \$12 million in economic activity in Queens, New York, in one year. In San

Francisco, Airbnb guests spent \$4.4 million at shops and restaurants in the Inner and Outer Sunset. And data shows that Airbnb guests stay longer and spend more money in the communities they visit than a typical hotel guest: 31 percent of the people who travel on Airbnb say they would have stayed home or wouldn't have stayed as long but for Airbnb.

Additionally, more of this spending goes directly to the citizens of the city they're visiting: Airbnb hosts keep 97 percent of what they charge for their listing. According to The Economist, hotels spend just 30 to 35 percent of their revenue on local labor<sup>1</sup>.

We have issued detailed reports outlining the Airbnb community's substantial positive economic impact in Chicago, Washington, D.C., New Orleans, and Austin, and recent estimates indicate that the Airbnb community will continue to generate substantial economic activity.

City	Estimated Airbnb economic impact
New York City	Over \$1.7 billion
Los Angeles	Over \$600 million
San Francisco	Over \$500 million

## Airbnb is committed to partnering with cities

---

Airbnb first began collecting and remitting these taxes in San Francisco and Portland in 2014. Since then, we have worked together with forward-thinking authorities on similar initiatives in cities and jurisdictions around the globe, including:

- Ajaccio, France
- Amsterdam
- Alabama
- Anchorage, AK
- Annecy, France
- Antibes, France
- Arizona
- Avignon, France
- Biarritz, France
- Boulder, CO
- Bordeaux, France
- Cannes, France
- Chamonix-Mont-Blanc, France
- Cleveland, Cuyahoga County, Ohio
- Colorado Springs, CO
- Connecticut
- District of Columbia
- Florida (as well as over 35 individual county tax authorities in Florida)
- Humboldt County, CA
- Idaho

---

<sup>1</sup><http://www.economist.com/news/finance-and-economics/21685502-services-airbnb-are-altering-economics-hotel-business-buffetts>

- Illinois and Chicago, IL
- India
- Jersey City, NJ
- Kansas
- La Rochelle, France
- Lille, France
- Lisbon, Portugal
- Louisiana
- Los Angeles, CA
- Lyon, France
- Malibu, CA
- Marseille, France
- Montgomery County, MD
- Montpellier, France
- Nantes, France
- New Orleans, LA
- Nice, France
- North Carolina (as well as 150 individual local tax jurisdictions in North Carolina)
- Oakland, CA
- Oregon
- Palo Alto, CA
- Paris, France
- Pennsylvania and Philadelphia, PA
- Phoenix, AZ
- Portland, OR
- Reno, NV
- Rhode Island
- Saint-Malo, France
- San Diego, CA
- San Francisco, CA
- San Jose, CA
- Santa Clara, CA
- Santa Cruz County, CA
- Santa Fe, NM
- Santa Monica, CA
- South Carolina
- Strasbourg, France
- Taos, NM
- Toulouse, France
- Utah
- Vermont
- Washington State

These taxes can be a significant source of revenue for city governments. All told, the Airbnb community has contributed \$175 million in additional tax revenue to the more than 220 jurisdictions where we have launched this initiative.

Much of this tax revenue has been collected through the establishment of Voluntary Collection Agreements (VCAs). Because collecting and remitting taxes can be a challenge for the regular people who host through Airbnb, Airbnb developed a tool, the VCA, to ensure that proper taxes are collected and remitted while relieving hosts of onerous tax filings and governments of the burden of collection and enforcement. When a jurisdiction signs a VCA with Airbnb, we collect appropriate local taxes from guests as part of their booking transactions and remit the tax revenue directly to the proper tax administrator on behalf of hosts.

## Contributing an additional \$2.5 billion in tax revenue

This tax initiative could generate substantial revenue that some cities may not be collecting today. We are eager to partner with more U.S. cities to establish this initiative and help make the most of this new economic opportunity.

This chart outlines tax revenue Airbnb has generated for a series of select cities in 2016:

City	Total taxes city collected in 2016 by partnering with Airbnb <i>(does not include any county- or state-level taxes that may apply)</i>
San Francisco, CA	\$19 million
Los Angeles, CA	\$13 million (began collecting 8/1/2016)
San Diego, CA	\$7 million
Portland, OR	\$4 million
Chicago, IL	\$3 million

According to our analysis of Airbnb booking data and local tax policies, by partnering with Airbnb to create clear tax rules for home sharing, the 50 largest U.S. cities would have collected a total of \$250 million in hotel, tourist and occupancy taxes from Airbnb in 2016. The chart below outlines a rough estimate of the amount of revenue selected cities could have collected in 2016:

City	Rough estimate of amount in hotel, tourist and occupancy tax a city could have collected in 2016 by partnering with Airbnb <i>(does not include any county- or state-level taxes that may apply)</i>
Austin, TX	\$6 million
Boston, MA	\$4 million
Denver, CO	\$4 million
Nashville, TN	\$3 million
Las Vegas, NV	\$3 million

Markets are always fluid and economics can change over time. The Airbnb community is growing incredibly fast, and more and more travelers are using Airbnb to see the world. But even in the extremely unlikely event that the Airbnb community remains static at its current size, this would represent a total of **\$2.5 billion over 10 years** in additional tax revenue for the 50 largest cities in the United States. The chart below outlines a rough estimate of the amount of revenue selected cities could collect over 10 years:

City	Rough estimate of amount in hotel, tourist and occupancy tax that city could collect over coming decade by partnering with Airbnb
Austin, TX	\$60 million over 10 years
Boston, MA	\$40 million over 10 years
Denver, CO	\$40 million over 10 years
Nashville, TN	\$30 million over 10 years
Las Vegas, NV	\$30 million over 10 years

## Supporting progressive policies and programs

The new tax revenue has the potential to support a range of progressive policies and services and many communities already have worked to put these resources to good use.

In Chicago for example, a portion of the new revenue is going to support affordable housing and aid for the homeless, funding supportive services attached to permanent housing for homeless families.

In Los Angeles, a voluntary collection agreement (VCA) was executed in August 2016 and has generated significantly more revenue for the city than anticipated. Mayor Eric Garcetti has expressed that the city plans to use this money in part to help with their serious homelessness problem via affordable and low-income housing initiatives. A vast majority of the funds collected so far have been used for “rapid rehousing” programs for the homeless.

In Portland, Airbnb tax revenue has been dedicated to the city’s Housing Investment Fund, which was used to secure an affordable housing bond.

Some governments have considered using these resources to support tourism. In both France

and Florida, tax dollars collected from Airbnb are supporting destination-marketing efforts and tourism infrastructure.

## **Working together to deliver more revenue to more cities**

---

Airbnb works to implement these tax programs in partnership with cities, but even with our team working to expand this initiative, figuring out how the different tax rules apply can be a challenge and putting this program in place isn't a matter of merely flipping a switch. In a limited number of jurisdictions including New York and Hawaii, existing laws limit Airbnb's and local tax collectors ability to enter into a tax agreement. We encourage governments to lift these restrictions. We are also reaching out to city and state leaders and are eager to work with them to expand this program. Community leaders interested in working with Airbnb to implement this initiative in their hometown can reach out to Airbnb by emailing [taxfacts@airbnb.com](mailto:taxfacts@airbnb.com).

We look forward to working with city officials to establish programs for collecting and remitting tourist taxes, helping them realize the economic benefits of home sharing, and strengthening the cities and communities that Airbnb hosts call home.

---

**Ricky Cassidy**  
rcassiday@me.com

# Airbnb & Hawaii Housing

January 9th, 2017

## OVERVIEW

Paul Richard Kauanahoakalani Cassidy Jr. (Ricky), a researcher who specializes in analyzing residential real estate markets, was retained by Airbnb to examine the potential impact of short-term rentals and home sharing on the Hawaii housing market.

This report dovetails with Cassidy's extensive work on affordable housing for the Hawaii Housing Finance & Development Corporation and the Hawaii Department of Health Services, as well as the City and County of Honolulu, Maui County, Hawaii County, and Kauai County, the Department of Hawaiian Homelands and the Office of Hawaiian Affairs.

For purposes of the analysis, Airbnb provided zip code-level listing and booking data for Hawaii for the 12 month period ending October 1st, 2016. This data was directly compared with other housing data, including that of the U.S. Census Bureau, City and County of Honolulu, the state Bureau of Conveyances, the Realtor's Multiple Listing Service, and the Craigslist listing data base.

## EXECUTIVE SUMMARY

1. **Airbnb's activity in the state is so small that it has no material impact on the availability of housing for local families.** Airbnb entire home listings represent a miniscule percentage of Hawaii's housing stock, and they are largely studio and one bedroom apartments in multi-unit buildings in traditional tourist areas. These units are often built as second homes for owners that live in them for only part of the year, and would not otherwise be on the long-term housing market. Many units are also primary residences rented only on an occasional basis. The vast majority of entire home listings are booked fewer than 180 days a year, suggesting these listings are being used otherwise, and would not be available for a long-term tenant.
  - a. In the State of Hawaii, there were **8,134 entire home listings on Airbnb** with at least one booking during this time period, **representing 1.53% of the statewide housing stock**. More than 61% of those listings were only rented infrequently



(less than 60 days per year). Only 949 of those units (0.18% of housing stock, or less than 1/5 of 1%) were rented more than 180 days.

- b. On Oahu, there were **3,185 booked entire home listings representing 0.93% of Oahu housing stock**. More than 52% of those listings were only rented infrequently (less than 60 days per year). 83% of those Airbnb listings were rented between 1 and 180 days per year. Only 550 listings, or 0.16% of total housing stock, were rented more than 180 days per year.
  - c. Maui had **2,383 entire home listings** with at least one booking during this time period, representing 3.3% of Maui housing stock. However, only 173 of those units (0.24% of housing stock) were rented more than 180 days. More than 68% were rented infrequently (less than days per year).
  - d. Hawaii Island had **1,827 entire home listings** with at least one booking during this time period, **representing 2.21% of Hawaii Island housing stock**. However, only 129 of those units (0.15% of housing stock) were rented more than 180 days. Nearly 66% were only rented infrequently (less than 60 days per year).
  - e. Kauai had **739 entire home listings** with at least one booking during this time period, **representing 2.42% of Kauai housing stock**. However, only 97 of those units (0.32% of housing stock) were rented more than 180 days. Nearly 65% were only rented infrequently (less than 60 days per year).
2. **Housing availability and affordability is not impacted by these very small number of short-term rentals, but instead by complex housing market regulations, conditions, and interactions.** These factors include zoning laws, mainland and foreign direct investment, limited supply, lack of public investment, policy, economic opportunity, lack of infrastructure, cost of production, and other dynamics.
- a. At a fundamental level, **housing demand is growing much faster than supply:** Honolulu gains 1,300 new households per year, yet only builds 970 new housing units. The projected three-year outlook shows this disparity growing, with household growth increasing to 1,475 families per year.<sup>1</sup> A study from the state's Department of Business, Economic Development & Tourism on housing for 2015-2025 projects a demand for housing units up to 66,000 over this 10-year period.<sup>2</sup>

---

<sup>1</sup> [https://www.huduser.gov/publications/pdf/HonoluluHI\\_comp.pdf](https://www.huduser.gov/publications/pdf/HonoluluHI_comp.pdf)

<sup>2</sup> <http://files.hawaii.gov>

- b. Honolulu has far more regulation of residential development than any other US metropolitan area. **An index measuring land use regulation in U.S. cities—the Wharton Residential Land Use Regulatory Index— ranks Honolulu as the most regulated U.S. city.**<sup>3</sup> Its high score stems from multiple layers of rigorous, lengthy review by both state and county governments for all new development projects. This impedes development of new supply and drives up housing prices.
3. **Vacation rentals have been a part of the Hawaii housing stock for decades.** Census data shows a relatively static proportion of the Hawaii housing stock has been historically dedicated to vacation rentals. The market entry of Airbnb in 2008 did not result in a correlating spike in vacation rental inventory, or a correlating loss in long-term rental housing. Instead, the existing alternative accommodations inventory was redistributed across the platforms/intermediaries.
  - a. Between 2009 and 2014, the number of vacation rentals in Hawaii grew by a maximum of 4% each year, while the number of Airbnb booked entire home listings increased by an annual average of over 100%.
  - b. Airbnb listings are primarily concentrated in traditional tourist destination areas, so it is unlikely they were units converted for short-term use from units that were part of the long-term affordable housing stock. Only 550 Airbnb entire home listings on Oahu were rented over 180 days. Of those, nearly 60% were located in Waikiki (many are former hotel buildings that obsolesced from their original purpose of accommodating visitors).
4. **Overregulation of short-term rentals and home stays could have a net negative impact on the economy and housing affordability.** According to the State Department of Business, Economic Development & Tourism, 31.7% of Hawaii households with mortgages and 48% of Hawaii renter households are housing cost-burdened.<sup>4</sup> The opportunity to generate additional household income from existing assets would have a tangible positive financial impact. Therefore, an immaterial impact on the long-term rental market from home sharing should be balanced against the number of local families who derive income from the practice and are able to achieve affordability.
  - a. In many cases, Airbnb income provides economic stability for people to stay in their homes: in a 2016 Airbnb survey, **65% of Oahu hosts said that income from**

---

<sup>3</sup> [http://www.uhero.hawaii.edu/assets/LaCroix-Land\\_Housing.1.27.pdf](http://www.uhero.hawaii.edu/assets/LaCroix-Land_Housing.1.27.pdf)

<sup>4</sup> DBET Research and Economic Analysis, 2014, <http://dbedt.hawaii.gov/economic/ranks/>

**Airbnb helped them afford to stay in their home, and 21% said the income they earned on Airbnb helped them avoid eviction or foreclosure.**

- b. Restricting home sharing, therefore, could create more Hawaii households that are housing cost-burdened. Similarly, enabling accessory dwelling unit (ADU) construction and short-term rental of these units unlocks rental income opportunities for homeowners and promotes affordability by creating both new housing supply and new income streams.
- c. Households who occasionally rent their home on Airbnb can significantly supplement their income: **a typical Airbnb listing in Hawaii earns close to \$9,000 in a year, equivalent to a 12% raise for the local median household.** Restricting the ability for people to home share would decrease income and hurt the livelihood of these casual hosts, and could extinguish what could one day be an important financial safety net in Hawaii. In a state-funded effort to keep families in their homes, Aloha United Way found that a one-time payment of only \$1,046,<sup>5</sup> on average, was enough to keep at-risk families from becoming homeless. This amount could be quickly earned by renting a home when unused, and survey data suggests that residents are using the service in such a way.
- d. Furthermore, overregulation may have an adverse effect on the economy. According to an earlier study by Hospitality Advisors,<sup>6</sup> **Airbnb guests contributed \$353 million to Hawaii's economy in 2015.**
- e. Nevertheless, the short-term rental industry should be subject to reasonable regulation. Hawaii's short-term rental regulations are outdated and in need of modernization to reflect changing technology and evolving travel and economic trends. Updated short-term rental regulations should follow best practices implemented by other governments, including: distinguishing between the local resident that rents his or her home out occasionally to supplement income and the dedicated commercial operator; requiring minimum insurance coverage and smoke and carbon monoxide alarms; and ensuring short-term rental platforms are paying requisite taxes.

---

<sup>5</sup><https://www.auw.org/more-families-risk-homelessness-expected-dan-nakaso-honolulu-star-advertiser>

<sup>6</sup> <http://www.bizjournals.com/pacific/news/2016/05/03/airbnb-visitors-spent-353m-in-hawaii-in-2015.html>

## EXISTING HOUSING MARKET CONDITIONS

At a fundamental level, housing demand in Hawaii is growing much faster than supply.

**Honolulu gains 1,300 new households per year, yet only builds 970 new housing units.** The projected three-year outlook shows this mismatch being exacerbated, with household growth increasing to 1,475 families per year.<sup>7</sup> DBEDT's study of housing for 2015 -2025 projects a demand for housing units up to 66,000 over this 10-year period). Indeed, the Hawaii real estate market has been and remains characterized by tight supply and high demand – and, because of this, Hawaii median house prices have been about three times U.S. mainland median prices. As strong demand leaks from outside the islands, the market has and will experience volatility upwards. Unlike most residential markets, this offshore demand is both for short and long-term stays (vacations, second-home ownership and permanent relocations). Simply put, the high quality of life, especially in comparison with other locations, is the foundation of this strong demand from current residents, tourists, investors, short-term migrants, and long-term immigrants.

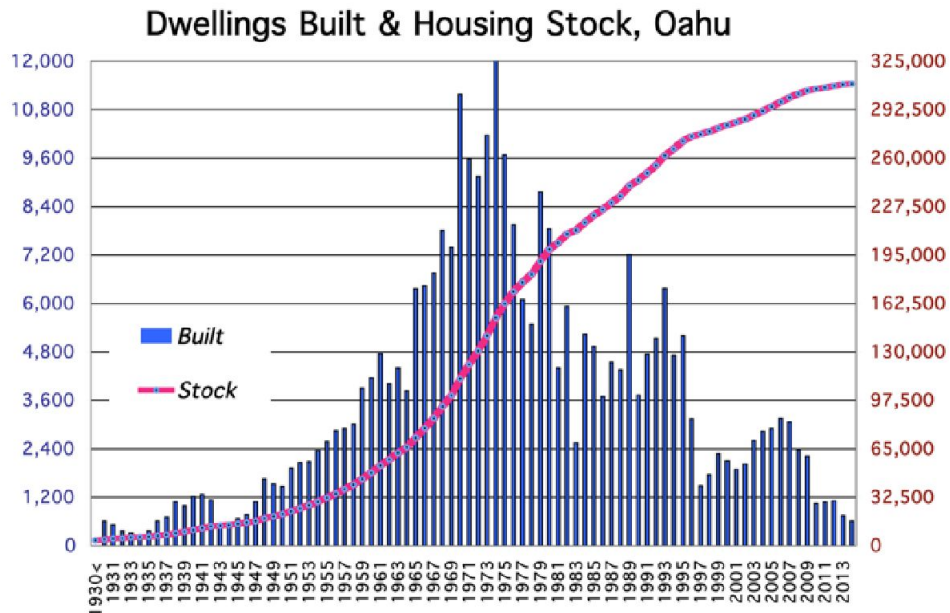
Hawaii's quality of life is its global economic comparative advantage. One manifestation is the large size and high quality of its visitor industry. Another is its growing residential population. A third is its large second home industry. A fourth is the large military population (Hawaii is home to more US servicemen than any other location globally, save Okinawa), though this is driven by strategic positioning and global politics. This advantage is based on a unique combination of attributes, which include temperate climate, beautiful surroundings, accommodating society and culture, the safety of American jurisprudence and security of a dollar-denominated economy.

The housing development process in Hawaii and Oahu is extremely restrictive: it is costly, time-consuming, and politically and economically uncertain. The cost is high because land is limited, rugged and isolated, labor is in short supply, a long supply chain and expensive warehousing drive up costs of inputs, and there is overregulation of land use. The housing development process is especially time-consuming due to rigorous regulations that often require numerous public hearings, environmental review, and multiple government approvals. The cost and time involved in developing housing in Hawaii combine to create high-risk investment conditions, particularly for housing for local consumers (market, workforce, or affordable housing) where margins are lower (as opposed to luxury or visitor-related

---

<sup>7</sup> DBEDT Research and Economic Analysis, 2014

developments with potentially higher margins for investors). Honolulu is the most regulated city in the United States, according to the Wharton Residential Land Use Regulatory Index. This impedes supply growth and drives up housing prices.



With the goal of determining how Airbnb fits into this bigger picture, this study considers the magnitude of the impact of home stay business on our community. Indeed, the largest consideration would be the potential impact on our community’s largest problem, the lack of shelter (and affordable shelter), but it also considers the significant contributions to the local economy, including increasing household incomes for hosts and deepening the tax base of the counties and the state.

## DATA AND ANALYSIS

The methodology used below was very similar to the Honolulu Rental Market study, starting with quantifying the total number of homes in the market. Airbnb provided zip code level listing and booking data for Hawaii for the 12 month period ending October 1st, 2016. This data was directly compared with other housing data, including those of the U.S. Census Bureau, City and County of Honolulu, the state Bureau of Conveyances, the Realtor’s Multiple Listing Service, and the Craigslist listing data base. This provided a baseline percentage of homes that are being rented to guests at least once per year.

### Minimal Housing Impact

The US census' latest estimate of the total number of housing units on Oahu (July 15, 2015) is 344,108. The number of booked listings on Airbnb (their count) is 3,185 entire home listings in the 12 months ending October 1, 2016. **Thus, only 0.93% of total Oahu housing stock hosted a guest in the one year study period for one day or more.**

Assuming that these homes are not available for long-term rental means assuming that demand for the one is exactly the same as the other. But they are completely different: home sharing happens in short-term, and is usually infrequent and occasional; home renting happens long-term, and is done consistently. This became apparent when I analyzed how the hosts shared their homes -- specifically the number of days they were occupied.

It also became apparent that one entire home listing is not equivalent to one unit of long-term housing taken off the market. This is because the unit may not have amenities required for long-term tenants such as a kitchen (e.g., ohana unit), may be reserved for visiting friends and family, or is poorly located in terms of commuting to work, medical and other services, etc.

It turns out that 52% of the 3,185 entire home listings on Oahu were shared for 60 or fewer days a year. So, a majority of these units were occupied by short-term renters less than 16% of the year.

Deducting those units from the total number of units absorbed by this business model, and comparing that with the total housing stock, reveals that **0.44% of the housing stock was rented for more than 60 days on Airbnb.**

In fact, of the Oahu entire home listings with a trip in the 12 month period, 83% were rented 180 days or less. 35% were rented between 1 and 30 days. Only 550 units were rented more than 180 days, representing just 0.16% (or one-sixth of one percent) of the housing stock. This data suggests that most Airbnb hosts are casual operators, renting space that would not likely be available on the long-term market.

Of Airbnb's 550 entire home listings rented over 180 days in the 12 months ending October 1st, 2016, 400 are attached dwelling units (apartments and condos) — of these, 185 are studios and 160 are 1 bedroom apartments. Many of these are studio and one bedroom apartments located in Waikiki that owners occupy only seasonally and stand empty for many parts of the year (i.e., not owner-occupants). These apartment units typically have higher maintenance fees, higher property taxes, and resort-like amenities making them less than ideal for locals. By filling the units while owners are away, short-term rentals have the potential to attract visitor spending that sustains neighborhood businesses and supports local jobs.

### Hawaii Entire Home Listings by County

County	Booked Entire Home Listings	1 to 30 nights	31 to 60 nights	61 to 90 nights	91 to 180 nights	Over 180 nights	Housing Units (2015 Census Estimate)	All Booked Entire Homes as % of Housing Stock	Over 180 Days as % of Housing Stock
Hawaii	1,827	920	283	193	302	129	86,009	2.21%	0.15%
Oahu	3,185	1,158	508	332	637	550	344,108	0.93%	0.16%
Kauai	739	376	103	68	95	97	30,503	2.42%	0.32%
Maui	2,383	1,228	398	226	358	173	71,722	3.32%	0.24%
Statewide Total	8,134	3,682	1,292	819	1,392	949	532,342	1.53%	0.18%

Waikiki has 47% of all entire home listings on the island, or 1,494 of the 3,185 total units on Oahu (of entire home/apts), for the 12 months ending in October 1, 2016. This equates to **0.43% of the housing stock**, and that reduces to **0.49% the percent of Oahu's housing stock** that is on Airbnb outside of Waikiki (without considering bedroom count or frequency of time usage). More than half of those 1,494 Waikiki units, or 690 units, were studios. Only 168 (or 0.05% percent of the housing stock) of those were rented out more than half of the year, while 522 were rented out for less than half the year. These Waikiki units are already a major part of the existing vacation rental market and are in a visitor destination area. They are an important part of the hospitality ecosystem and likely have not been part of the long-term housing supply for decades.

On Maui, there were 2,383 entire home listings with at least one booking during this time period, representing 3.3% of Maui housing stock. However, only 173 of those units (0.24% of housing stock) were rented more than 180 days.

Given the history of tourism in Hawaii, the data indicates that Airbnb is a new overlay on an existing market, but one that has improved the visitor experience and empowered local

homeowners to become hosts. Furthermore, Airbnb and other similar platforms serve a vital role in providing additional inventory for a visitor accommodations market that has experienced record high occupancy levels for traditional hotels and resorts<sup>8</sup> over the past few years. Many of Airbnb's listings in popular visitor destinations were already being rented out to vacationers, usually through the yellow pages or the classified section of newspapers. The demand for short-term rentals predated the hotel industry on Oahu (sailors on shore leave) and represents a legitimate supply option for visitors seeking affordable accommodation in a desirable location. Visitor shelter and accommodation has long been supplied by the Hawaii tourism industry, which ended in the late 1970s when public sentiment turned against building more hotels. The commercial activity of home stay and accommodation rental is a logical result of that undersupply. The participants in this market included hotel visitors who determined to extend and expand their time in Hawaii by buying a small unit in or around Waikiki, and then renting it out when they were not there. A number of rental agencies and agents grew up in order to assist. This was well established before the turn of the century. With the arrival of the internet, this activity responded by moving from advertising in the newspaper to advertising on the internet, mainly Craigslist. As the internet economy matured, companies sprang up to aid and service both the suppliers and their customers.

The late market entry of Airbnb in 2008 did not result in a correlating increase of vacation rental units, as they simply were in different locales, different usages, and different time frames. Instead, this small number of accommodations simply switched, going from one business model using agents and classified advertising to 'doing it yourself' using the internet. These units were redistributed across the platforms/intermediaries, but they were a small number to begin with and remain relatively small in number, particularly in comparison to the larger market. Airbnb remains a minority market participant, following VRBO and Homeaway.

Airbnb listings are primarily concentrated in traditional tourist destination areas, meaning they are less likely to be conversions of what would be considered long-term affordable housing stock. Only **550 Airbnb entire home listings on Oahu** were rented over **180 days**. Of those, **327 (59%) were located in Waikiki**. **1,494, or 47% of all Airbnb booked entire home listings on Oahu, were located in Waikiki**. While many zip codes in urban Honolulu do have a number of Airbnb entire home listings, the zip codes making up urban Honolulu outside of Waikiki only contain 549 (17%) of the Airbnb entire home listings on Oahu.

## **Beneficial Income for Local Residents and Revenue for Local Businesses**

Income from Airbnb may also help residents afford their homes. Households who rent their home on Airbnb casually are meaningfully supplementing their income (**e.g., a typical Airbnb**

---

<sup>8</sup> Hawaii Department of Business, Economic Development and Tourism, Quarterly Visitor Statistics



**listing in Hawaii earns close to \$9,000 in a year, equivalent to a 12% raise for the median household).** Overregulation would decrease income and hurt the livelihood of these casual hosts, and could extinguish what could one day be an important financial safety net in Hawaii. As mentioned above, Aloha United Way found that a one-time payment of only \$1,046, on average<sup>9</sup>, was enough to keep at-risk families from becoming homeless. This amount could be quickly earned by renting a home if a household could find temporary housing with family or friends or rent their home while they are traveling for work or visiting family or friends, and Airbnb host survey data suggests that residents are using the service in such a way: **65% of hosts on Oahu say that income from Airbnb has helped them afford to stay in their home, and 21% of hosts on Oahu say that the income they have earned on Airbnb helped them to avoid eviction or foreclosure.**<sup>10</sup>

### Typical Host Earnings

County	Typical <sup>11</sup> Listing Annual Earnings	Median Household Income <sup>12</sup>	Equivalent to % Raise for Median Household
Hawaii	\$5,505	\$60,033	9.2%
Oahu	\$11,358	\$77,273	14.7%
Kauai	\$10,966	\$77,140	14.2%
Maui	\$9,002	\$70,497	12.8%
Statewide	\$8,842	\$73,486	12.0%

### Appropriate Regulation

Additionally, over-regulation of the short-term rental market will neither solve Hawaii’s housing crisis nor increase housing affordability. There are much larger forces affecting supply and demand in Oahu’s historically volatile housing market, including restrictive zoning laws, high costs of development, low wages and low alternative economic opportunities, and a simple lack of infrastructure.

<sup>9</sup> “Rent funding through AUW makes a dent in evictions,” Dan Nakaso, Honolulu Star-Advertiser, December 22, 2016

<sup>10</sup> Airbnb Survey Data, 2016

<sup>11</sup> A “typical listing” is defined as a listing that was first active before the start of the 12 month study period, and had a booking during the 12 month study period.

<sup>12</sup> American Community Survey 2015, Median Income in the Past 12 Months, 1 Year Estimates (Table S1903)

Given the strong growth of the homestay and short-term rental industry, it is time to give thought to new regulation that is both reasonable and fair. And, as Hawaii's current short-term rental regulations are outdated, the rules on the books should be modernized. New rules should reflect changing technology, as well as evolving travel preferences and lifestyle trends. They should protect and enhance Hawaii's position globally as a premium place to visit and enjoy recreation. And they should balance the needs of the hosts with the wants of the guests, in a win-win fashion. If done with foresight and common sense, these regulatory updates and changes will preserve and encourage the success of this new business model, while boosting Hawaii's economy and enhancing consumer choice.

Modern short-term rental regulations should follow best practices implemented by other governments. These include suggestions that governments and regulators:

1. Establish regulations that distinguish between the local resident that rents his or her home out occasionally to supplement income, and dedicated commercial vacation rental operators;
2. Allow primary residents to share their homes without limitation and with low regulatory burden, because these are homes that would not otherwise be on the long-term market;
3. Create a streamlined, online permit system for vacation rental operators and second home owners to legitimize a market that has existed for decades and is an important part of Hawaii's economy, supporting local jobs and neighborhood businesses;
4. Create safety and insurance standards such as minimum coverage limits for liability, fire extinguishers and smoke and CO alarms on site; and
5. Enable all short-term rental platforms to pay taxes on behalf of their users.

## **ABOUT THE AUTHOR**

Ricky Cassidy is a market researcher who specializes in analyzing residential real estate markets. He was retained by Airbnb to examine the impact on the housing market of their business model – the home stay or home sharing business – which effectively enables homeowners to shelter guests on a short-term basis for a fee.

The data and statements herein are based on independent research by Ricky Cassidy and are in no way contingent upon outside findings or recommendations. He has spent 18 years as an independent, third party consultant doing supply and demand, feasibility, long-range planning and pricing and absorption studies on for-sale and rental housing. Before that, he had eight

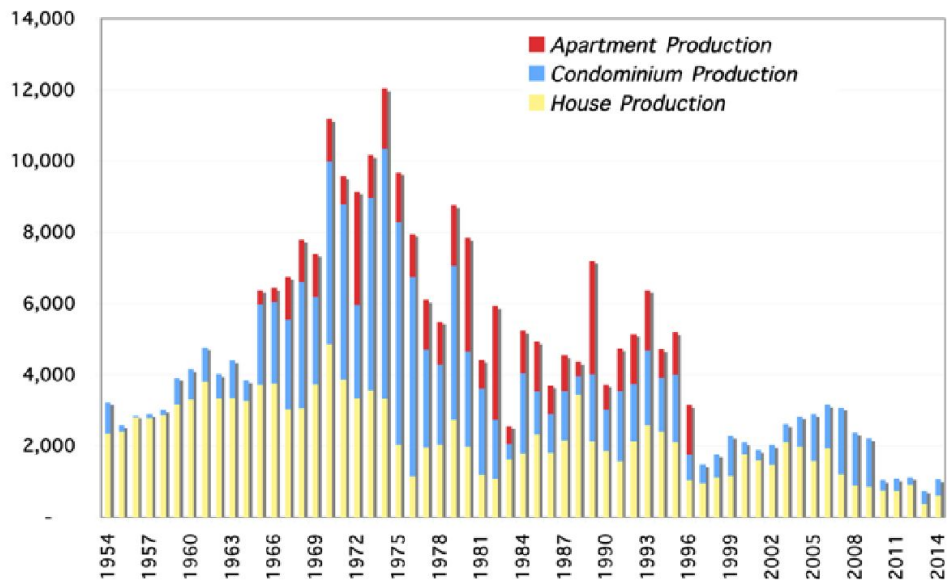
years of experience as the in-house market analyst for the two largest residential developers in Hawaii. This experience informed his creation of several extensive databases of proprietary data that includes for-sale transactional (sales) data, for-sale and rental listing (offering) data, housing stock or housing inventory data, future project and entitled land data and, most uniquely, in-house developer data on sales and prices over the last 25 years.

In addition to working with the private sector, he has worked with public agencies on their analysis and forecasting needs, including all four counties, the state housing finance agency, and two of the three branches of military services.

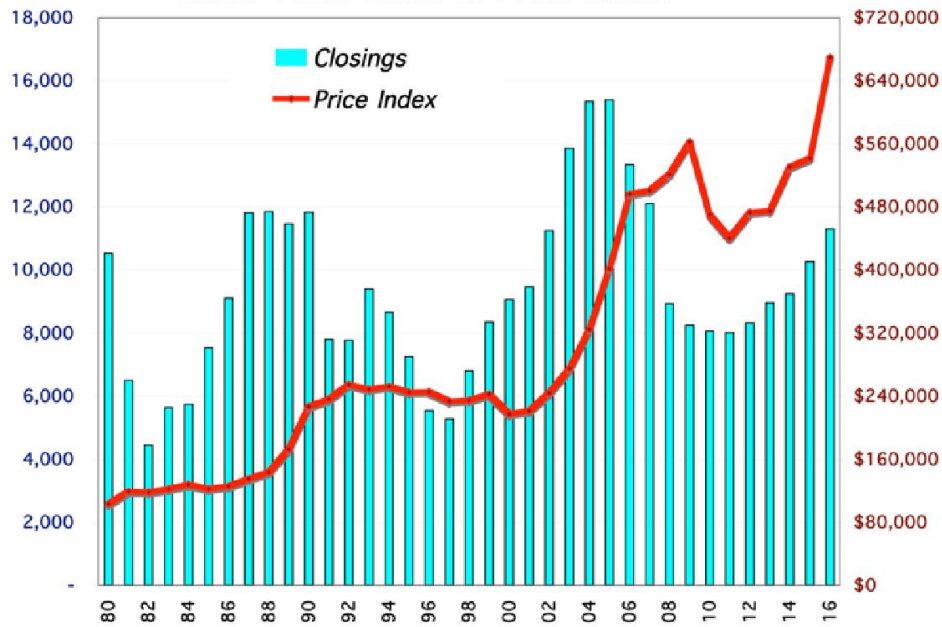
This examination dovetails with his extensive work on affordable housing for the [Hawaii Housing Finance & Development Corporation](#) and the Hawaii Information Service, plus the four counties, the Department of Hawaiian Homelands and the Office of Hawaiian Affairs, all of whom clearly have an interest in both the issue of the lack of shelter in the community, and the solution. This resulted in the Honolulu Rental Market Study (<http://dbedt.hawaii.gov/hhfdc/files/2015/02/RENTAL-HOUSING-STUDY-2014-UPDATE-CITY-COUNTY-OF-HONOLULU.pdf>).

APPENDIX A. Supplementary Figures

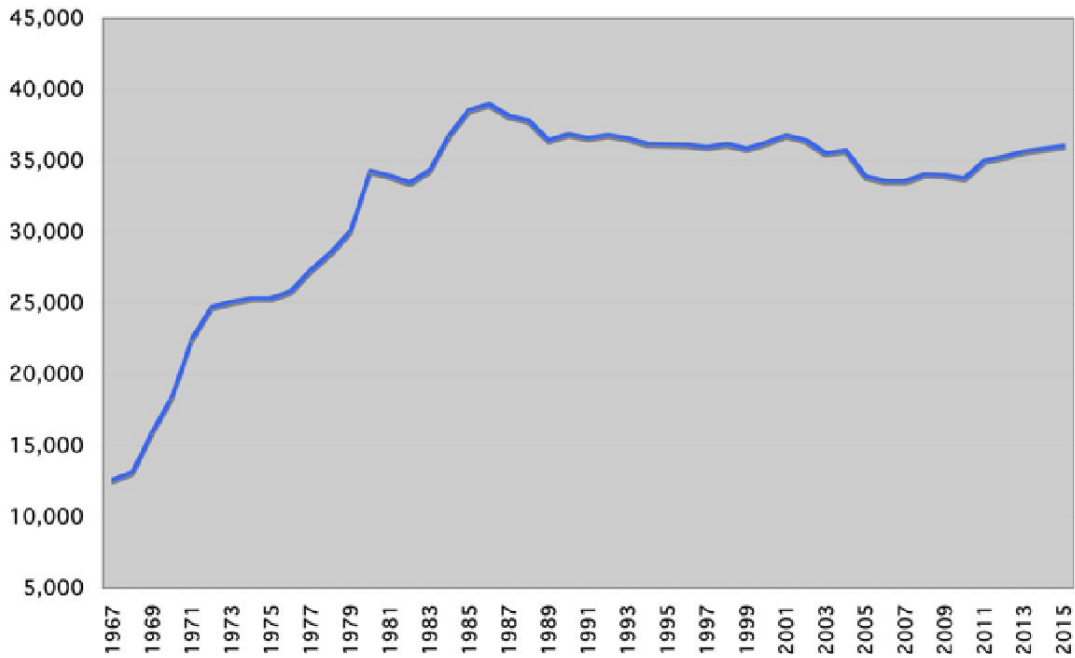
Annual Production, Pre-Statehood to 2014



Oahu Total Sales & Price Index



## Hotel Room Inventory Oahu



### APPENDIX B. Supplementary Tables

#### HAWAII ISLAND AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	1,827	74%
Private/Shared Room	653	26%

#### OAHU AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	3,185	66%
Private/Shared Room	1,611	34%

**KAUAI AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	739	77%
Private/Shared Room	222	23%

**MAUI AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	2,383	82%
Private/Shared Room	431	18%

**STATEWIDE AIRBNB LISTINGS WITH TRIP IN YEAR PERIOD, BY ROOM TYPE**

Listing Type	Number of Listings with Trip in 12 Months Ending October 1st, 2016	Share of Listings
Entire Home/Apt	8,134	74%
Private/Shared Room	2,917	26%

**DAYS OF OCCUPANCY, ATTACHED AIRBNB ENTIRE HOME LISTINGS, BY BEDROOMS**

Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	436	205	116	72
1	542	196	106	54
2	219	69	34	15
Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	53%	25%	14%	9%
1	60%	22%	12%	6%
2	65%	20%	10%	4%

**DAYS OF OCCUPANCY, DETACHED AIRBNB ENTIRE HOME LISTINGS, BY BEDROOM**

Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	48	20	21	13

1	123	49	31	18
2	198	39	27	7
3	174	37	16	4
Bed	0-3 Mo.	4-6 Mo.	7-9 Mo.	10-12 Mo.
0	47%	20%	21%	13%
1	56%	22%	14%	8%
2	73%	14%	10%	3%
3	75%	16%	7%	2%

## APPENDIX C. Discussion of Housing Stock Numbers and Owner Occupancy

### HOUSING STOCK, OR TOTAL INVENTORY OF RESIDENTIAL UNITS

There are two different indices of housing inventory or the stock of dwellings in the City and County of Honolulu: US Census and the city’s tax assessor.

The US Census shows that there are some 344,108 housing units, as of July 1, 2015. Their definition is: “A housing unit is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.”

The 2010 number is drawn from their Census survey instrument, and I find that a pretty robust number. That said, the 2015 number is less so. That’s because it is a calculation, taking into account a number of different variables, including jobs, incomes, and economic growth. What’s one man’s house is another man’s shack. That said, here are the counts.

### RESIDENTIAL DWELLING UNITS COUNTS & TRENDS, US CENSUS

	Count
Housing units, July 1, 2015	344,108
Housing units, April 1, 2010	336,899

The following table shows the total housing stock in Honolulu, as best defined and described by the state sponsored study on housing, in 2010. It is drawn from the City & County’s database used by the tax assessor to assess property tax on the property owner. It is data that is a bit more robust if it comes from the tax assessor. The city’s revenues depend on it. The table describes the data historically.

### RESIDENTIAL DWELLING UNITS COUNTS & TRENDS, HONOLULU TAX DATA

Year	1992	1997	2003	2006	2010	2016
------	------	------	------	------	------	------

Single family	137,299	145,078	150,957	160,686	165,440	170,748
Condominium	81,293	92,503	91,913	94,640	100,438	106,731
Apartment	40,535	43,732	39,602	43,275	43,424	43,573
Military/Student	26,430	28,160	28,994	20,804	20,422	20,422
Total	285,557	309,473	311,466	319,405	329,724	341,474
Percentage Increase		8.4%	0.6%	2.5%	3.2%	3.6%

Note that the 2016 dwelling unit counts are an estimate, one that I made by using the actual closing counts of newly built or developer units to increase the total amount for the housing stock on the island. Additionally, I used a small factor to decrease the total housing counts in order to account for the few units that were destroyed by natural or other events.

Note that the two numbers for housing stock or total dwellings on the island are similar in size, in count. I opt to use the US Census estimates for the analysis, because they are transparent and easily verified.

Non-owner occupants are comprised of some local investors, but significantly more investor-owners living elsewhere, or offshore buyers. For instance, around 70% of all Maui Condos are owned by non-owner occupants, many of which are offshore investors. This is also true for Waikiki and other Oahu resort areas. The table below shows this for Downtown to Waikiki, as well as for just Waikiki and just the Kapiolani area (location of the development).

#### **INVESTOR OWNED UNITS (NON-OWNER OCCUPANTS) BY PERCENTAGE**

Beds	Downtown-Waikiki	Waikiki
Studio	90%	94%
1	72%	85%
2	60%	72%
3	51%	64%
4	64%	100%

The next table shows the total inventory of attached residential units on Oahu, broken out into owner occupants (OO) and non-owner occupants (Non-OO).

#### **TOTAL ATTACHED DWELLING UNITS ON OAHU, BY OWNER OCCUPANCY**

Beds	Non-OO	OO	Total
Studio	24,197	1,290	25,487



1	33,601	7,732	41,333
2	40,015	20,558	60,573
3	12,005	9,119	21,124
4	749	979	1,728
5	29	30	59
6	-	1	1

The next table shows the total inventory of detached residential units on Oahu, broken out into owner occupants (OO) and non-owner occupants (Non-OO). However, note that these numbers do not capture all of the accessory dwelling units existing, as the dwelling data is defined by being on separate properties.

**TOTAL DETACHED DWELLING UNITS ON OAHU, BY OWNER OCCUPANCY**

Beds	Non-OO	OO	Total
Studio	522	92	614
1	2,190	556	2,746
2	7,526	3,477	11,003
3	48,203	20,420	68,623
4	34,752	13,391	48,143
5	11,639	4,573	16,212
6	4,776	2,159	6,935



February 24, 2017

**Testimony supporting the intent of HB1471**

Members of the Hawaii State Legislature:

The Kohala Coast Resort Association (KCRA) would like to support the intent of HB1471, to create an equal playing field for individual vacation rental owners, and traditional visitor accommodations when it comes to tax collections. We believe that the state and counties need to find the appropriate way to collect the taxes from and communicate with this growing segment of the visitor industry, and is why we also supported SB704.

KCRA is a collection of master-planned resorts and hotels situated north of the airport which represents more than 3,500 hotel accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the Island of Hawai'i. KCRA member properties annually pay more than \$20 million in TAT and \$20 million in GET.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho  
Administrative Director

Patrick Fitzgerald, Hualalai Resort  
Kelley Cosgrove, Fairmont Orchid, Hawai'i  
David Givens, Hilton Waikoloa Village  
Steve Yannarell, Waikoloa Beach Marriott Resort & Spa

Scott Head, Waikoloa Land Company  
Robert Whitfield, Four Seasons Resort Hualalai  
Rodney Ito, Mauna Lani Bay Hotel & Bungalows  
Craig Anderson, Mauna Kea Beach Hotel and Hapuna  
Prince Hotel



OAHU ALTERNATIVE  
LODGING ASSOCIATION  
CITIZENS FOR A SHARED ECONOMY

House of Representatives  
Finance Committee

Tuesday, February 28, 2017, 11:00 a.m.  
Room 308

**SUPPORT INTENT (PROPOSING AMENDMENTS):**  
**HB1471, HD2 RELATING TO TAXES**

Aloha Chair Rep. Luke and members of the committee:

My name is Allison Pettersson, testifying on behalf of the Oahu Alternative Lodging Association (OALA). We represent operators and owners of short-term rentals on the island as well as associated members in housekeeping, gardening and other services. We are a non-profit organization that supports the responsible advancement of our island's short-term rental industry.

We support the intent of HB1471, HD2 but have concerns regarding certain provisions in the current draft. We offer comments and suggest the committee amend two specific provisions in House Draft 2:

- 1) Mandatory – We appreciate the state's desire to ensure that each dollar of tax revenue from short-term rentals is collected. However, a mandatory provision has unintended consequences. It is important to understand that many operators manage multiple properties for individual owners. Each of the properties is under individual contract that may or may not include permission to collect taxes on behalf of owners. A mandatory provision would cause a tremendous administrative burden across the industry requiring each of these contracts to be renegotiated. Furthermore, small owner/operators that have their own websites may be confused by the regulatory burdens of registering as a tax collection agent. For these reasons, we ask the committee to amend the measure by reverting it back to a voluntary program or provide an opt-out clause for operators with a TAT #.
- 2) Surcharge – We recognize that housing costs are an important issue in the islands. However, we would suggest that housing is everyone's responsibility and that all citizens and businesses have a role in a shared solution. We ask that the Finance committee consider removing this surcharge levied only on our industry and instead dedicate a portion of the tax revenue generated by this bill to the rental housing revolving fund or other appropriate program.

We strongly support the measure with these amendments. In addition, we believe it's important to understand that the local short-term rental industry is vital to Hawaii's economy and the tourism sector.

Short-Term Rentals are Vital to Hawaii's Economy

- While visitor numbers have hit historic highs and airlift remains stronger than ever, it is important to recognize that the additional accommodations needed by these visitors is generated by short-term rentals.
- Increasingly, travelers want to live like locals and are seeking out opportunities to stay and eat in local communities – not necessarily in resorts and traditional accommodations.
- Guests at short-term rentals are more likely to spend at locally owned retail shops and restaurants, unlike other visitors who often dine and shop at resort establishments.
- A recent Hawaii Tourism Report has found that our alternative accommodations industry provides \$1.3 billion in direct spending in Hawaii. As such, the total tax potential for the state from the industry under a sound tax program like this could amount to over \$100 million.

For these reasons, we hope that the Finance Committee will pass this measure with the aforementioned amendments.



# Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

HB1471 HD2

**Relating To Taxation**

COMMITTEE ON FINANCE

**Tuesday, February 28, 2017, 11am**

**Conference Room 308**

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA supports **with comments** **HB1471 HD2**, which allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services. Ensures that the subject property is in compliance with applicable land use laws. Allocates \$1,000,000 of TAT revenues to each county for FY 2017-2018 to comply and enforce county ordinances regulating transient vacation rentals. Creates a surcharge tax on transient accommodation brokers. Sunsets on 12/31/2022.

MHLA is in support of establishing a level playing field for all visitor accommodations. There are more than 25,000 alternative accommodations in the Hawaiian Islands competing with hotels, resorts, timeshares, and bed-and-breakfasts, with many them likely avoiding the 9.25 percent transient accommodations and general excise taxes. This Bill would simplify administration for both the Department of Tax and the alternative accommodations, and reduce the State's enforcement burden in ensuring individual tax compliance. However, we are not in favor of the added language in HB1471 that creates a surcharge tax. We feel this overrides the overall purpose of the Bill and will discourage brokers from registering as tax collection agents.

MHLA also supports the additional language provided in this bill that would allocate \$4 million from the general TAT coffers to support the counties (\$1 million to each county) in the compliance and enforcement of illegal short term rentals.

Thank you for the opportunity to testify.

February 28, 2017

**The Honorable Sylvia Luke, Chair**  
House Committee on Finance  
State Capitol, Room 308  
Honolulu, Hawaii 96813

**RE: H.B. 1471, H.D.2, Relating to Taxation**

**HEARING: Tuesday, February 28, 2017, at 11:00 a.m.**

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,200 members. HAR **opposes** H.B. 1471, H.D.2 which:

1. Requires transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services;
2. Ensures that the subject property is in compliance with applicable land use laws;
3. Allocates \$1,000,000 of TAT revenues to each county for FY 2017-2018 to comply and enforce county ordinances regulating transient vacation rentals; and
4. Creates a surcharge tax on transient accommodation brokers.

The House Draft 2 of this measure now mandates that our regulated and licensed REALTORS® register as a transient accommodations broker and also require them to collect and remit taxes.

In HRS 237D-1:

"Transient accommodations broker" **means any person or entity**, including but not limited to persons who operate online websites, online travel agencies, or online booking agencies, **that offers, lists, advertises, or accepts reservations or collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans.**

The requirement that our REALTOR® members be responsible for filing and remitting taxes is contrary to the current requirement in the tax code, which provides that **the owner of the property, not the REALTOR®, is responsible for paying the General Excise Tax and Transient Accommodations Tax.**

HAR notes that, under HRS 237D-8.5, our REALTORS® are required to either register the first page of the property management agreement with the Department of Taxation, or provide the Department with a copy of the 1099, the social security number or federal ID number, and the GET/TAT numbers if available. However, not all of our members collect and remit taxes on behalf of their clients nor are they experts collecting and remitting taxes for all their client base.

Further, the proposed surcharge will also tax our REALTOR® members. Our members are independent contractors who pay their own real estate license and fees to the Department of Commerce and Consumer Affairs in addition to General Excise Taxes. The **proposed surcharge solely based on our members' business structure to manage short term rentals is excessive and superfluous.**

HAR understands the importance of ensuring that the State is able to collect the appropriate amount of taxes owed by all property owners. As REALTORS®, we often interact with property owners, potential property owners, and fellow real estate professionals on ensuring that proper disclosures are made and guidance is provided in various aspects of the real estate transaction.


**HAR believes this is a complex issue of not only tax collection but an issue that blends into real estate licensing laws and the landlord tenant code. As such, we respectfully suggest that the Committee on Finance consider creating an exemption for real estate professionals licensed under HRS 467.**


For example, under our real estate licensing laws, HRS 467 it provides for a “custodian or caretaker” exemption where an unlicensed individual, who for a single owner, manages or cares for the single owner’s property. The single owner may be an individual or an entity and the single owner must employ the custodian or caretaker.


From a landlord-tenant relationship, in HRS 521, an on-island agent is required if you rent your property and live off-island. The on-island agent doesn’t have to be licensed as a real estate professional, unless he or she is involved in real estate activities like renting or offering to rent the property, or managing the property for lease.

To further complicate the process, pursuant to HRS 237D, if you’re off-island, you’ll also need to designate a local contact to assist with the collection of taxes for the rental property. The local contact also serves as the contact in case of an emergency or natural disaster, or to answer any questions, concerns, or property issues that arise. The on-island local contact doesn’t have to be a licensed real estate professional, unless he/she is also involved in real estate activities, like renting or offering to rent the property.



 | 808-733-7060

 | 808-737-4977

 | 1259 A'ala Street, Suite 300  
Honolulu, HI 96817

---

**In closing, we respectfully ask that the committee consider an exemption for our REALTOR® professionals who are already regulated by statutes and rules. We should not automatically fall under the definition of transient accommodations broker and to also be obligated to pay a surcharge solely for acting as a real estate licensee.**

Mahalo for the opportunity to testify.





# Coalition for Equal Taxation

Committee on Finance  
House Bill 1471 H.D.2  
February 28, 2017 at 11:00 a.m.

Dear Chair Luke and Vice Chair Cullen and Members of the Committee:

On behalf of the Coalition for Equal Taxation, we **OPPOSE** House Bill 1471 H.D.2 and respectfully request that you defer this Bill.

The Consumer Protection Committee who last heard this bill, inexplicably added *all* advertising platforms are *required* to be tax collection agents. As this would be a new regulated industry it would be subject to a Sunrise review. We hope that the Finance Committee agrees that this was an inappropriate addition to this Bill and should be removed.

Hawaii Revised Statute 237D requires that all transient accommodation operators be registered and licensed. Conversely, AirBnB's proposed tax collection agent is not compatible with already established State of Hawaii taxation or zoning laws.

## **THIS BILL WILL NULLIFY THE PROVISIONS OF ACT 204 FOR AIRBnB HOSTS:**

During the past four years, the State Legislature and Transient Accommodation Operators have worked towards amendments that provide effective and efficient tax collection and county zone compliance. This produced Act 326 and later Act 204.

What this current Bill is now proposing, although it sounds appealing to have a tax agent, is really ***a dismantling of Act 204 as it relates to hosts who rent through AirBnB.*** It shields those hosts from compliance in the following areas:

<b>Current Law Act 204 Compliance</b>	<b>AirBnB Proposed Law</b>
<p>Operators must</p> <ul style="list-style-type: none"><li>* register with the Dept. of Tax</li><li>* obtain a GET and TAT tax number</li><li>* post the TAT in advertising</li><li>* engage an on-island contact</li><li>* comply with zoning</li><li>* comply with landlord tenant laws</li><li>* file a Transient Accommodation Tax Return based upon Gross Receipts</li></ul> <p>(non compliance ranges from fines to charges of a misdemeanor)</p>	<p>AirBnB operators</p> <p>Do NOT register with the Dept of Tax Do NOT obtain a GET and TAT tax number Do NOT place <i>their</i> TAT in advertising</p> <p>AirBnB will post an AirBnB assigned TAT in the advertising (no traceability to the operator)</p> <p>AirBnB will relieve all operators of all obligations of 237D ("agent shall assume all obligations, rights, and Responsibilities imposed by this chapter upon its operators)</p> <p>(no operator is held accountable. AirBnB shields the operator as noted above and AirBnB is shielded by the Federal Communications Act)</p>

## **ADVERSE IMPACT UPON ZONING ENFORCEMENT:**

Passage of this Bill will result in exacerbating the increase of rentals being conducted in residential areas. AirBnB's hosts (operator) can post for free. AirBnB has indicated in Court documents that no human reviews ads that are placed on their website, rather it is an electronic automated function. A perusal of AirBnB's website today of ads on

Oahu shows that the majority are in zones that are illegal for transient accommodations and the majority of ads do not contain a TAT identification number.

As it is readily apparent to anyone who reviews the ads, they are out of compliance. Should the State of Hawaii then accept AirBnB as a tax collection agent and have all of these operators who clearly are not compliant be given the shield of an AirBnB tax number? Should the State enter into an agreement with such a company who is presently compounding the zoning problems.

In cities and locations where vacation rental is regulated by zoning, it has often times led to litigation between the governments and AirBnB. City and County of Honolulu has very limited legally zoned transient accommodations. They are found in resort zones, some A-2 zones and the "Non conforming registry" approved by the CC Honolulu which has been frozen since 1989. All else is considered illegal for transient accommodation renting.

### **TAX COLLECTION AGENT APPROVED BY THE STATE OF HAWAII WILL LEAD THE CONSUMER TO BELIEVE THEY ARE RENTING IN A LEGALLY ZONED AREA - IT WILL CONFUSE THE CONSUMER**

Once AirBnB becomes a designated tax collection agent, it will give the consumer the impression that the unit is legal and approved for renting since it is on a website of a "designed tax collector agent." This will create an appearance of legitimacy for units listed with AirBnB. This is misleading to the consumer.

### **AIRBnB's METHOD OF TAX COLLECTION**

AirBnB does not pay tax on behalf of an individual taxpayer by transmitting to the DoT that taxpayer's information. Nor do they issue a 1099 indicating gross amount and taxes withheld and paid to the DoT.

They *aggregate the total of all rental activity*, determine the tax percentage, deduct 5% for themselves and then send one grand total to the DoT under the one tax number assigned to AirBnB.

### **AIRBnB WILL TAKE 5% OF ALL TAX MONEY AS PAYMENT TO THEMSELVES**

As you will note, AirBnB is crafting this Bill to provide for a *confidential* Agreement. In other locations, the Agreement has provided to pay AirBnB 5% of all taxes collected. That ***is 5% less the DoT will received*** which they are entitled to if there was not a "middleman" between the taxpayer and the DoT. (this amounts to more than the GET collected). The DoT has spent many years and tens of millions of dollars on the Tax Modernization. This past year they implemented the GET and TAT phase. The Tax Modernization software provides the DoT the means to detect fraud that was unavailable to them in the past. It is unnecessary to divert 5% of TAT collected to a middleman. That 5% could pay for jobs at the DoT rather than in San Francisco at AirBnB.

### **AIRBnB ABRIDGES TAXPAYERS RIGHTS**

AirBnB does not allow for operators to decline the tax collection. By listing with AirBnB a taxpayer must forgo their right to pay their own taxes to the DoT. In no other circumstance in Hawaii is a licensed taxpayer *required* to give up their right to pay their own taxes by using a tax collection agent. In every circumstance described in IRS regulations, it is a voluntary relationship. ***Should this Bill pass, a taxpayer who already is licensed by the DoT should be given the right to continue to pay their own taxes.***

### **LACK OF FINANCIAL STANDARDS**

AirBnB is a privately held company that has existed for only eight years. There are no public filings with the Securities and Exchange Commission as to their financials or business structure. AirBnB does not disclose what they do with the money they are holding on behalf of governments or individuals. They are not required to adhere to account segregation or solvency. They are not required to adopt, maintain or disclose any details as to what they do with other people's money. They are not subject to banking, escrow or trust regulations. Before Hawaii enters into such an agreement with AirBnB there should be safeguards put in place. There is no oversight or standards of conduct for AirBnB.

We respectfully request that you please defer this Bill.



The House of Representatives  
The Twenty-Ninth Legislature  
Regular Session of 2017

To: Rep. Sylvia Luke, Chair  
Rep. Ty Cullen, Vice Chair

Date: February 28, 2017

Time: 11:00 a.m.

Place: Conference Room 308  
Hawaii State Capitol

**RE: House Bill 1471 HD2, Relating to Taxation**

Chair Luke and Members of the Committee:

*Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation founded in 2011, with over 1000 members. Our mission is to provide Hawaii vacation-rental property owners with information to help them comply with the applicable State and County regulations, support the Hawaii economy by offering visitors choice in accommodation, and advocate for the rights of Hawaii vacation property owners. RBOAA members provide transient vacation rentals in full compliance with existing tax and County regulations. RBOAA fully supports enforcement of existing regulations.*

RBOAA strenuously **OPPOSES** HB 1471 HD2.

RBOAA welcomes proposals which assist in the collection of taxes without placing undue burden on the taxpayer or the state Department of Taxation (DoT). RBOAA had welcomed the significant improvements made in earlier drafts of this bill since the 2016 session. However, HB1471 HD2 is exceptionally problematic, in terms of its content and consequence. **This bill now amounts to an attack on legal vacation rental operators.**

There are significant issues with **HB1471 HD2**.

1. Recent amendments to the bill make it mandatory for accommodation brokers to become tax collection agents.
  - a. Not all brokers accept payments from guests (including VRBO and HomeAway), making it impossible to comply with the tax collection requirement.

- b. Some accommodation brokers will conclude they are not registered under Hawaiian law and therefore will not comply with this legislation if enacted, putting into jeopardy the ongoing business of the operators who are otherwise operating legally in the State of Hawaii.
  - c. By making it mandatory for accommodation brokers to become tax collection agents, the State has made accommodation brokers and tax collection agents a regulated industry. A sunrise analysis is therefore required.
  - d. By making it mandatory for accommodation brokers to become tax-collection agents, the State is taking on the obligation of protecting consumers, travelers, and vacation rental owners from error and improper activities on the part of the accommodation brokers.
  - e. Despite making it mandatory for accommodation brokers to become tax collection agents, this bill provides for *any* entity to act as a tax collection agent *without* signing a contract with the State. How does the State propose to consistently enforce requirements when some brokers are under contract and others are not even registered? How can the State deny certification to some brokers without even requiring others to register?
2. The bill requires that as tax collection agents, accommodation brokers must furnish tax return information to the Counties. As you are aware, taxpayer information can only be shared with the IRS and the State Department of Taxation. Compliance with County land-use laws is a cornerstone of this initiative, but the method proposed is not legally available in the United States. The bill most likely contravenes Hawaiian state laws, HRS §235-116 and HRS §237-34.
  3. The bill provides no recognition of the fact that there are thousands of transient vacation rental operators who are currently operating legally in the State of Hawaii. The bill also provides no recognition that no other business and no other landlord in Hawaii are forced to use a third party to collect and remit taxes on their behalf.

**If this bill is to proceed, numerous further improvements are necessary in order to protect consumers, travelers, vacation-rental property owners, the Counties and the State of Hawaii.**

The State of Hawaii is taking on responsibilities by signing this agreement

If the State of Hawaii is to entrust tax collection and remittance to a third-party corporation, the State must ensure the company has in place sufficient internal controls around record keeping, cash balances held, and protection of private information. The tax-collection agent will be holding funds on behalf of vacation-rental operators, travelers and the State of Hawaii, yet they are not banks, they are not insured by the travel industry, and may not operate under the regulations applicable to real-estate broker trust funds. If the State of Hawaii is to entrust millions of dollars to these companies on the basis of a contract and an agreement to pay the tax-collection agent, the State is obligated to take on the requisite consumer-protection functions, including mandatory audits of the internal controls of the tax-collection agent.



The State must also ensure that funds held by the tax-collection agents are no less protected than funds held in the Bank of Hawaii.

If the State is going to rely on the company to provide personal and tax information to the State, the State is obligated to ensure the company has adequate protection processes to secure the private information.

Who is responsible if the tax-collection agent defaults on payment? It is much easier to place a lien on a property located in Hawaii than it is to pursue legal action on a company based in another state. But the property owner will also be out of pocket if the agent defaults. The State must protect the Hawaii property owners in the event of default by their contracted tax collector.

#### Opt-Out Provision is Necessary

Many operators have been successfully collecting and remitting tax to the State of Hawaii for many years. Those operators should have the ability to opt out of the tax-collection agent program and continue to deal directly with the State of Hawaii. Not only do they fear being charged high fees for the tax-collection service, they don't want the advertising platform to hold their cash for long periods of time. (In Hawaii, unlike San Francisco, most bookings are made a year in advance.)

The DoT knows which operators are in compliance with TAT and GET filings and could issue tax certificates to those operators. The DoT is further protected by the right to request and receive 1099K and 1042S reports from the tax-collection agents. (Vacation-rental-operator GET and TAT numbers are cross-referenced to the respective federal tax identification numbers.) The bill already acknowledges that not all bookings are done through the advertising platforms, so the opt-out amendment is not a significant change to the bill as there is already provision for operators to self-report.

The benefit to the State of allowing operators to opt out of the tax collection agent program is that by not requiring operators to be part of the program, the consumer-protection requirements noted above are reduced.

#### Enforcement of County Zoning Compliance

Requiring the tax-collection agents to provide names and addresses to the Counties is a positive step to strengthening enforcement of land-use regulations. RBOAA hopes the Counties will utilize that information when received.

The bill provides that the tax-collection agent provides “returns, names and addresses” to the Counties. The Counties do not need and should not get tax return information.

There are very significant problems with this bill. The fundamental flaws identified above are offered merely as the most egregious examples of them.

#### 4 | HB 1471 HD2 RELATING TO TAXATION

Passing this bill will jeopardize the availability of legal transient vacation rentals across the state. Depending on which numbers you choose to believe about the number of legal transient-vacation rentals, this bill could remove up to 4.3 million visitor nights per year – currently offered legally.

Passing this bill will lead to very poor, and probably unenforceable, legislation, while providing no benefit to any party.

We recognize legislators are working hard to address the complex issues surrounding vacation rentals and tourism; however, HB1471 HD2 is not the solution. Respectfully, we request you consider the input of vacation rental operators who are currently operating legally and are the most negatively impacted by this proposal.

There is better legislation on this matter in the hands of legislators, which is why we ask that you **DEFER** this now deeply flawed bill. SB1087, while still requiring improvements by the Committee, offers a better use of Committee efforts.

RBOAA **OPPOSES** the bill. However, if the committee sees fit to pass this bill, we respectfully request that **seven amendments** be made:

1. Remove the requirement for advertising brokers to become tax collection agents and make it optional, reinstating the language in HB1471 HD1

Add wording stating:

2. “The tax-collection agent shall permit and facilitate an annual audit of its internal controls. The audit shall be designed and conducted by the Office of the Auditor of the State of Hawaii. The Office of the Auditor, at its sole discretion, may accept an audit report of internal controls conducted by an independent third party. Further, the tax-collection agent shall comply with all recommendations and address all deficiencies identified in the report of the Office of the Auditor as a condition of retaining the license as a tax-collection agent.”
3. “Upon presentation of a tax certificate issued by the Hawaii Department of Taxation and a certificate from the applicable County, the advertising platform shall permit any operator to opt out of the tax collection agent program. The operator will then be solely responsible for collecting and remitting all applicable taxes and filing all required tax returns.”
4. “No transient accommodation broker, acting as a tax-collection agent, may charge a fee to an operator for providing the tax-collection service when the tax collection agent is paid by the State of Hawaii for the tax-collection service.”
5. “The tax collection agent shall notify all operators and plan managers of all information provided to the Director and the County Tax Official.”



Delete the word “**not**” from the following clause:

6. Execution of a tax-collection agreement shall ~~[not]~~ be a requirement for registration as a transient-accommodations broker tax-collection agent

Delete the words “**returns and**” from the following clause (237- f(2)):

7. All ~~[returns and]~~ the names and addresses provided by a registered transient-accommodations broker tax-collection agent shall be disclosed to a duly authorized County tax official for the limited purpose of real-property tax administration.

Thank you for the opportunity to testify on this measure.

Sincerely,

Neal Halstead  
President, Rental by Owner Awareness Association



February 28, 2017

TO: House Committee on Finance  
The Honorable Sylvia Luke, Chair  
The Honorable Ty J. K. Cullen, Vice Chair

FROM: Bob Dzielak, Executive Vice President and General Counsel, Expedia, Inc.

RE: HB 1471, HD2 Relating to Taxation: OPPOSE

Dear Chair Luke, Vice Chair Cullen, and Members,

I write in opposition to HB 1471. There is a common assumption that all internet advertising platforms are the same. This is simply not the case.

HRS, 237d-1 defines a “Transient Accommodations Broker” as “any person or entity, including but not limited to persons who operate online websites, online travel agencies, or online booking agencies, that offers, lists, advertises, or accepts reservations or (emphasis added) collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans.”

Using this definition, HomeAway and VBRO are treated as a Transient Accommodations Broker because we operate an “online website” which “offers, lists, advertises ... reservations”. We DO NOT collect whole or partial payment of the rental amount for a vacation rental. The proposed bill makes it mandatory for a platform to collect and remit taxes and, if it cannot do so, it essentially cannot operate. As a result, companies that advertise travel services on either a subscription or fee basis, like a newspaper listing, cannot operate under this law.

HB 1471 also allows the State discretion to reach an agreement with a company to collect or remit or to deny it a license. If a company cannot obtain an agreement or a license, it cannot collect and remit taxes and, therefore, it cannot operate.

If this bill became law, this Legislature could be creating a competitive advantage for AirBnB. We don't believe this is an intended consequence, but intended or not, it is a consequence.

Furthermore, we believe that the language of HB 1471, HD2, requires that all hotels “attest” that they comply with all land use laws. This would impose a heavy burden on OTAs and similar companies to obtain attestations from every hotel on whether they comply with all land use laws. If a hotel does not provide such attestation? Are the OTAs required to suddenly delist that hotel?



Chair Luke, Vice Chair Cullen and Members, as you consider this bill please keep in mind that there are meaningful differences between HomeAway and VRBO on the one hand and AirBnB on the other hand. We work differently with our homeowners and renters, offer varying types of transactions, and serve a divergent demographic of homeowners and renters.

- HomeAway and VRBO started out as, and have largely remained, a subscription-based listing service, much like newspaper classified ads. A homeowner pays an annual fee to appear on the HomeAway or VRBO websites.
- HomeAway and VRBO do not collect money from the guest to pay for the rental amount. Contrast that with AirBnB who collects money from renters to cover the rental amount, AirBnB's commission, and in some jurisdictions, the taxes owed by the homeowner.
- HomeAway and VRBO's average homeowner is 53 years old. The typical person who rents on HomeAway and VRBO is a 47-year old woman who is renting on behalf of her family. The average length of stay at a HomeAway and VRBO rental is between 6 and 7 nights.
- HomeAway and VRBO's typical owner offers part-time use of their second home during periods when they are not in residence. As a result, there is no reason to believe that if vacation rentals are not allowed that these owners would make their homes available in the long-term rental market.

The mandate in HB1471 for the online rental platforms to collect and remit state taxes shifts the responsibility for tax payment from the owner of the accommodation to our advertising platform. There is no corollary situation where the state has transferred the obligations of one business to another business. The state should not start now.

Mahalo for the opportunity to submit this testimony in **OPPOSITION** to HB1471, HD2.



Bob Dzielak

27 February 2017

House of Representatives

Finance Committee

***Support Intent of HB1471, HD2 Relating to Taxes***

***Tuesday, February 28, 2012 Room 308 in the State Capitol.***

Testimony of Mark R. Hagadone, Ph.D., FACFE

Representative McElvy and members of the Committees:

My name is Mark Hagadone and I am testifying **in support** of HB1471HD1 Relating to Taxation. For the past year, I have rented an 'ohana unit on my property when it isn't being used by my adult children in college or my extended family while visiting. Doing so provides us with extra income that I use to make ends meet. It helps to pay for our children's college, our mortgage and property taxes. This is especially important to us I am 65 years old and anticipating retirement in the future.

Currently our Ohana unit, used in this manner, places much **less** of an impact on our neighbors and neighborhood resources than the full time rental unit used to in the past. We have on property parking and are always present onsite during our rentals. Our guests are well mannered and world class travelers. They utilize the local economy, the stores, the shops, restaurants and the shopping malls while visiting our beautiful and vibrant local community. They have an opportunity to really see the human and aloha side of Honolulu, and speak highly of it when they leave, promoting our travel industry and our Island hospitality.

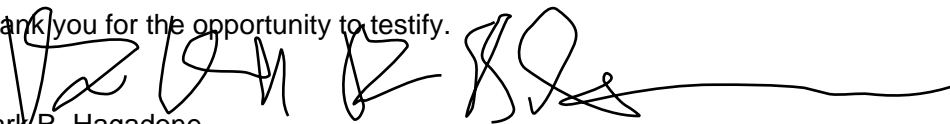
It is a positive win/ win, sustainable situation which works for all parties both local and overseas.

I grew up in the islands and we are all aware how difficult it can be to make ends meet on a fixed income.

**I urge you to pass HB1471.** The revenue thus generated can help the State to meet its budget requirements and ensure everyone in this safe and sustainable industry pays their fair share of taxes in an efficient and accurate way.

Thank you for the opportunity to testify.

Mark R. Hagadone  
3900 Niele Place  
Honolulu, Hawaii 96816

A handwritten signature in black ink, appearing to read 'Mark R. Hagadone', written over a horizontal line.

**TO: COMMITTEE ON FINANCE**  
**RE: TESTIMONY in SUPPORT of HB1471, RELATING TO TAXATION**

HEARING:

<b>Committee</b>	<b>Room</b>	<b>Date/Time</b>
<b>ETT/CPH</b>	<b>Room 308</b>	<b>Feb 28, 2017 11:00 PM</b>

**TESTIMONY FROM: "Loke" Susan Simon**

Aloha, Chair Representative Luke, Vice Chair Representative Cullen, and Members of the Committee:

Thank you for representing the people of Hawaii and considering our views.

I appreciate the opportunity to testify in support of HB1471 which allows transient accommodations brokers (such as Airbnb, VRBO, HomeAway) to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services.

As a tax-paying resident of the State for almost 30 years, I SUPPORT this effort to EFFICIENTLY and EFFECTIVELY collect and process tax revenues for the State.

For over 20 years, my husband and I have hosted (free of charge) international guests through International Hospitality. We have made wonderful friends. We have not been paid, although we have housed, fed, looked after and showed these folks around. If people are willing to pay for this service, I think they should be allowed to do so and hosts would be willing to give the State its fair share. Let's make that easy to do by letting the platforms process the tax payments.

Our son has left for college and we now have a nice room available to share with folks visiting Hawaii. We do not want to rent it out long-term, as it remains our son's room when he returns for summer, winter and other breaks. It would be very helpful to us if we were allowed to charge for the short-term rental of his room and apply the income toward his college education.

In conclusion, we could really use the extra income; the State needs revenue; as an industry, this measure will ensure we all pay our fair share.

Thank you for the opportunity to testify.

To Committee: House Finance Committee

SUPPORT for HB 1471

February 28, 2017 at 11 am

Testimony of Kathleen Dinman  
(808)780-6325

To Chairperson:

My name is Kathleen Dinman. Thank you for the opportunity to testify in support of HB 1471. Please consider allowing short term rental accommodations.

I have been a widow for over 6 years and have two children. The only way I can pay for college tuition at UH and keep paying for repairs and maintenance on my home in Kailua is to share my home with visitors for additional income.

I contribute to the community by using the services of pool cleaner, house cleaner, and airport shuttle. I encourage my guests to dine at nearby restaurants and shop for locally grown produce.

I live on the same property and make sure the visitors do not bother my neighbors, I provide a parking stall on my property, and I supervise the noise level.

Most of these visitors said they would not travel to Hawaii if they had to stay in a hotel in Waikiki. Either they have experienced that part of Hawaii on a previous trip or they prefer to be outside a major city.

How can you legalize marijuana and not legalize short term rentals? I support the idea of taxing the income on short term rentals and using part of that to help homeless families. Thank you for consideration short term rentals.

Aloha,  
Kathleen Dinman  
(808)780-6325

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 9:20 AM  
**To:** FINTestimony  
**Cc:** clau@99imperial.net  
**Subject:** Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments: Aloha Chair, Vice Chair and member of the Committee on Finance. I oppose HB1471. The bill attacks legal vacation rental operators and bans advertising platforms from accepting advertisements in Hawaii. Our tourist industry is dependent on legal vacation rentals to provide accommodation for the tourists who visit the islands every year. It's been shown that in last 2 years, many travelers chose to stay in a short term rental home or apartment than stay in a hotel. Hawaii needs to make sure it doesn't over-regulate the tourism market as it would hurt itself in the process. Please oppose HB 1471. Thank you.

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:** Saturday, February 25, 2017 6:06 PM  
**To:** FINTestimony  
**Cc:** sandysimonian@me.com  
**Subject:** Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/25/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sandy Simonian	Individual	Support	No

Comments: I pay every penny of my taxes! If this makes others do the same I think that's great for all of us.

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:** Saturday, February 25, 2017 3:20 PM  
**To:** FINTestimony  
**Cc:** jennif431@aol.com  
**Subject:** Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/25/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Gonzales	Individual	Support	No

Comments: I am a short term rental owner and want the agencies that we operate through to be able to collect taxes and submit to the state of Hawaii. I do have a TAT and GE license and I have always paid my taxes. I use this to supplement my retirement. I worked for almost 49 years for a company that filed Bankruptcy and turned our retirement over to the PBGC. At that point I lost about \$1000 a month in retirement. If there is a large group of short term owners that do not pay taxes and this state is looking for money why would this not be good.jkgonzales

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)

**Bernard P. Carvalho, Jr.**  
Mayor



**Michael A. Dahilig**  
Director of Planning

**Wallace G. Rezendes, Jr.**  
Managing Director

**Ka'āina S. Hull**  
Deputy Director of Planning

**PLANNING DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**  
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766

**Testimony before the House Committee on Finance**  
**HOUSE BILL HB1471 HD2 Relating to Taxation**

February 28, 2016 at 11:00 am Conference Room 415

By Michael A. Dahilig - Director of Planning, County of Kaua'i

Honorable Chair Luke, Vice Chair Cullen and Members of the Committee:

On behalf of the County of Kaua'i, I offer testimony with **CONCERNS** and would **OPPOSE** the measure if the bill remains in its current form.

We understand the need to more efficiently and tightly capture taxes from those who fail to pay them. However, this bill, if passed as is, would potentially further companies like [VRBO.com](http://VRBO.com) and AirBnB to help to facilitate illegal usage contrary to county zoning laws rather than holding them responsible as business partner.

The County of Kaua'i has very strict zoning laws related to transient usage given the wholesale gentrification caused by the "vacation renting" of homes meant for only residential use. Many of these rentals are also on agricultural lands, and operating contrary to Chapter 205, Hawaii Revised Statutes relating to State Land Use policy. As our Department has attempted to enforce these county and state laws to preserve our rural residential communities, a common defense posed by these operators is, "I'm legal because I have paid TAT."

Having these private operators help collect taxes but not be held responsible for their role in perpetuating violations of county zoning laws would only lead to further proliferation of resort usage in communities meant for Hawai'i's residents. Contrary to what has been pitched by many who wish to short-term rent out a room or a unit, this activity has actually created the reverse effect by upping residential home values and pushing affordable long-term renters out of the market.

**The current house draft has watered down the responsibility of these entities to confirm compliance with state and county land use laws, simply by requiring they "attest" to compliance. What this equates to is an advertiser easily checking a box online saying yes they are in compliance with the law. Therefore, in section "i", we request the following paragraphs be added:**

*(3) Transmit all information on the operator or plan manager, including the individual person responsible and not a corporate entity, their contact information and the tax map*



*key of the property to all relevant state and county land use regulatory agencies seven (7) days before posting the advertisement.*

*(4) The agent shall remove the advertisement of an operator and plan manager within seven (7) days from notification by a relevant state or county land use regulatory agency that a property is not in compliance with pertinent land use laws, or shall be subject to the same penalties as if the agent is the operator or plan manager.*

**The cost of enforcement is extremely high for the counties given the required contested case process required to be compliant with constitutional due process protocols. We believe these amendments will aid in reducing these enforcement costs and place fair responsibility on the agent to insure facilitating legal operation.**

Alone, the County of Kauai is averaging close to \$25,000 in hearings officer costs per contested case (excluding corporation counsel costs and investigator time), per violation, and has only resolved a handful of administrative litigation cases compared to the hundreds of open violations for illegal vacation rentals currently on the Planning Department's radar.

These operations are highly lucrative for the operator, they have no qualms concerning spending the money to gum up planning commission agendas which consist of largely volunteers. Their strategy is to delay disposition of administrative litigation stemming from violation notices to maintain operation due to the large weekly revenue from rentals that can exceed \$10,000 a week.

We respectfully request the committee **AMEND** the measure as stated above. Mahalo for your consideration.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 11:06 AM  
**To:** FINTestimony  
**Cc:** GRAND@hawaii.rr.com  
**Subject:** Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
G Rand	Individual	Support	No

Comments: House Of Representatives Finance Committee SUPPORT INTENT of HB1471, HD2 RELATING TO TAXES Testimony of Kimo Smith Aloha Chair Rep. McElvy and members of the committes: My name is G Rand and I am testifying in support of the intent of HB1471 yet have reservations about certain provisions - the mandatory requirement and the special surcharge plus enforcement issues for all those that have been trying to get a valid permit for decades. My children and I have been raised in the islands and for the last 39 years I have been an Oahu property manager and since 1989 have been advocating responsible permitting and the payment of related taxes for the alternative housing industry. I urge you to pass HB1471. The revenue generated are desperately needed to help the state to meet its budget shortfall. We FULLY support you in this endeavor to collect taxes, so I ask you to create language to enable a viable path to allow those of us that for decades have been paying ALL related TAT/GET taxes on their own single rental. We work 60-70 weekly, barely break-even over the decades and need recognition that we are doing the right thing. We do not want our supporting this Bill on Tax Collection to simultaneously back stab us as criminals only because of the separate permitting issues. Thank you for the opportunity to testify.

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:** Monday, February 27, 2017 2:04 PM  
**To:** FINTestimony  
**Cc:** rose@crhmaui.com  
**Subject:** \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments:

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:** Monday, February 27, 2017 1:55 PM  
**To:** FINTestimony  
**Cc:** lisa@crhmaui.com  
**Subject:** \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments:

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

HOUSE FINANCE COMMITTEE  
SUPPORT INTENT  
HB 1471, HD 2  
TUESDAY, FEBRUARY 28, 2017  
11 AM

Aloha Members of the committee.

My name is Azlina Harun and I am testifying in support of the intent of HB 1471, but strongly object to the following provisions.

Mandatory collection by a tax broker:

It is important that each dollar of tax revenue from short-term rentals is collected. Please note that many short-term rental owners are tax compliant. They are already paying the GE and TA taxes currently due. Allocating this function to some "tax-broker" is unnecessarily punitive to these responsible tax payers.

Other unintended consequences may include:

- 1) Additional administrative burden on operators across the industry. Contracts will need to be renegotiated, and add additional confusion to an already cumbersome tax paying system. Furthermore, small owner/operators that have their own websites may be confused by the regulatory burdens of registering as a tax collection agent. I ask that the committee to amend the measure by reverting it back to a voluntary program or provide an opt-out clause for operators with a TAT #.
- 2) High housing cost is an important issue here. It is however the responsibility of all of us. All citizens and businesses must play a role in its solution. I ask that the Finance committee remove the surcharge levied only on one industry and instead dedicate a portion of the tax revenue generated by this bill to the rental housing revolving fund or other appropriate program.
- 3) Either remove or amend the language regarding county allocations as follows:

(6) \$4,000,000 shall be allocated to the counties for ~~activities relating to transient vacation rentals including but not limited to review of current ordinances, permitting of TVUs and reasonable enforcement~~ of county ordinances ~~regulating transient vacation rentals~~ as follows:

\$1,000,000 for fiscal year 2017-2018 to Kauai county, \$1,000,000 for fiscal year 2017-2018 to Maui county, \$1,000,000 for fiscal year 2017-2018 to Hawaii county, and \$1,000,000 for fiscal year 2017-2018 to the city and county of Honolulu.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 12:37 PM  
**To:** FINTestimony  
**Cc:** shelle@crhmaui.com  
**Subject:** \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments:

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)

House of Representatives  
Finance Committee  
SUPPORT INTENT  
OF  
HB1471, HD2 RELATING TO TAXES  
Testimony of Cara T. Goodrich

Aloha!

My name is Cara Goodrich, born and raised on Oahu and am in the Hospitality business as Vice President of Sales. My husband and I purchased my family home in Aiea Heights from my mom and renovated the house to be able to take care of her and our family members. We are providing my Mom with the quality of life she is accustomed to as she is on a limited income, as well as helping my step son and his family of 4 with a place to live to get them started and save money to buy their own home. Because I work for a professional property management company, I have often thought of renting my extra bedroom /bathroom on Airbnb to help us make ends meet instead of living paycheck to paycheck since there are things that may happen that would cause us to not be able to financially keep up with our family commitments. I did plan to pay taxes but understand the process is a hassle, but if HB1471 passes, I could depend on the platform I choose to submit the taxes for me.

I am testifying on behalf of myself in support of the intent of HB1471 and am concerned about certain provisions such as the “mandatory requirement” (perhaps amend the measure by reverting it back to a voluntary program or provide an opt-out clause for operators with a TAT#); and especially the “special surcharge” (since Housing is everyone’s responsibility and we should have a shared solution). My final comment is that the State needs the funds; and we can make this a win-win situation.

Cara Goodrich

99-206 Leomanu Place

Aiea, HI 96701

(808) 358-7766



HB1471

When my Mom passed away, my Dad was lonely and sad. Since I travel a lot and always stay in an Airbnb so I suggested he host visitors. He had extra time and extra space in his apartment. He also had a beautiful view.

It was such a blessing to have people from all over the world make friends with Jerry. He went out of his way to let them feel welcome, often being their private tour guide as well. He provided fresh fruit every morning and he made lots of friends. Every visitor left with a signed copy of a book Jerry wrote.

This opportunity was a life saver. As his children, we no longer needed to worry about Dad being left along. The visitors were blessed to have a long time resident and "Story Teller" available at any time to offer suggestions and very often a free ride.

People share their homes for all sorts of reasons. Visitors love staying in a "home" because the vacation is so much more rich. They get first hand recommendations and advice with no "spin." Visitors are returning to Hawaii sometimes yearly. Staying in Waikiki, though fun the first few times becomes old. Why does President Obama and his family stay in a private home in Kailua each time they visit? They only stay for two weeks at a time yet there are many lovely hotels in Waikiki. The answer is obvious, times have changed. People are traveling more and more. Other options are more available. If we stay in the "Dark Ages," visitors have many more choices. They will go to other resort locations. We must give our visitors the experience they are having all over the world. If we don't change, we will be left behind.

For some reason (perhaps the hotel lobby) our elected officials decided to turn away millions of dollars they were being offered to be collected on behalf of families who want to share their homes. Please consider doing what other cities are already doing, let the taxes be collected at the time a visitor decides to stay in a home, rather than in a hotel with horns blasting all night, street fights, excessive resort fees, shameful parking rates and friendly tall skinny ladies who are looking for a date.

February 28, 2016

Hawaii House of Representatives, Committee on Finance  
Hawaii State Legislature  
State Capitol  
415 South Beretania Street

Chair Luke and Committee members,

UNITE HERE Local 5, a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii, would like to register our strong opposition to HB 1471, HD2 in its current form.

This measure is almost exactly the same as last year's HB1850 in its final form. There is no language in this bill addressing the governor's or our concerns regarding housing.

We need strong language in this bill that explicitly protects the counties' ability to enact effective enforcement measures. In order for that to happen, language in the preamble of the bill stating "This Act is not intended to preempt or otherwise limit the authority of the counties to adopt, monitor, and enforce local land use regulations, nor is this Act intended to transfer the authority to monitor and enforce such regulations away from the counties" needs to be reflected in the actual language the bill would add to the Hawaii Revised Statutes.

There are key elements that would need to be included in whatever measure gets passed in order for us to feel it protects our housing, our jobs and our islands:

- As I mentioned, we must not preempt the counties' ability to enact good regulations;
- Rental operators should be required to certify to the tax collection broker that they are operating legally, but more importantly, they should be required to provide documentation to back that up;
- We should ensure that it complements - and does not nullify - Act 204 in allowing the state to hold operators accountable;
- Tax collection brokers should be required to operate transparently by providing lists of names and addresses of operators to the State so the State can verify the money it is collecting reflects reality.

Thank you.

LATE

From: mailinglist@capitol.hawaii.gov  
 Sent: Monday, February 27, 2017 4:22 PM  
 To: FINTestimony  
 Cc: bonnie@mauiownercondos.com  
 Subject: Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie Pauli	MauiOwnerCondos.Com - South Maui Condos Owner Direct Rental Network	Oppose	No

Comments: Aloha, As the owner of an advertising platform, MauiOwnerCondos.com which has been advertising for vacation rental owners for over 17 years, I am writing in opposition to HB 1471. Even before Act 204 went into effect we refused to accept an owner who did not display their Hawaii Tax ID on their listing. We went beyond that and checked to be sure the State had that ID on record. We also checked with Maui County to be sure it was truly the owner of the property supplying the listing information. Our concern has always been to offer the renter coming to Maui the most secure place possible to evaluate legal vacation rentals. We informed our member owners of changes in the various laws as well. Our member owners are known to me, responsible and file their taxes. We do not collect money on our site for rentals, the owner makes their own arrangement with the renter. VR owners advertise on multiple platforms and collect money on many but not all. The confusion over collections HB 1471 would cause would make it difficult for the DOT police and could place the honest, tax paying owner in the clutches of fraudulent tax collection agents. It offers no consumer protection to owners or travelers. It puts a private company between the tax payer and the State putting both parties at risk. Most of the large directories who are increasingly forcing the owner to collect money thru them have refused to admit they can be held liable by the state anyway. If the intention of this bill is to offer consumer protection and force payment of taxes by those who are not currently paying, the easiest method for both options is to Require the advertising platforms to provide to the State the following info 1. Name and address of unit being advertised 2. Name of person advertising the unit 3. the tax ID provided for the unit - (if any) 4. A link to the calendar on that site for that property This can be done simply with some code pulling info from the rental platform database. The state would then have information necessary to determine if 1. The unit is legally being rented 2. The number of nights the unit is not rented per year. At that point the State could then decide if they wanted to check a particular property more thoroughly - making policing and compliance easy. IF the State found the info to be inaccurate or taxes paid insufficient they could then ask the platform to remove the listing. Not being able to advertise their property if the best deterrent to keep owners honest and paying their taxes. Because of the issues AirBnB and VRBO are running into with different municipalities, I believe these platforms are looking for ways to become "friends" with these entities and a simple solution to providing info and agreeing to remove the listing without being required to repay the owner if the state determined the tax numbers provided were not accurate, or taxes were not actually being paid would be something they would now actually consider enforcing.

As an owner of vacation rentals who has complied to all county and state regulations and paid my taxes in a timely fashion I don't understand how you can force me to have a third party pay my taxes with no guarantee to me they will actually comply. This bill will in the end could cost the state more money than it makes. Please do not vote in favor. Bonnie Pauli Maui Owner Condos Direct Rental Network website: <http://MauiOwnerCondos.com> email: [bonnie@mauiownercondos.com](mailto:bonnie@mauiownercondos.com)  
[bonnie@pcisimages.com](mailto:bonnie@pcisimages.com)

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)

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 27, 2017 4:30 PM  
To: FINTestimony  
Cc: tammy@crhmaui.com  
Subject: \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Tammy Sylva	Condominium Rentals Hawaii	Oppose	No

Comments:

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)

FINTestimony

---

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 27, 2017 4:56 PM  
To: FINTestimony  
Cc: stacy@stacyvosberg.com  
Subject: \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*



**HB1471**

Submitted on: 2/27/2017

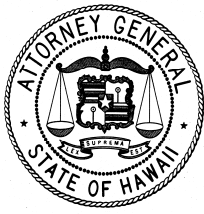
Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments:

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)



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

**LATE**

**ON THE FOLLOWING MEASURE:**

H.B. NO. 1471, H.D. 2, RELATING TO TAXATION.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Tuesday, February 28, 2017      **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Mary Bahng Yokota, Deputy Attorney General

---

Chair Luke and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and provides the following comments.

This bill (i) provides that the Director of Taxation shall require a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers for general excise tax and transient accommodations tax purposes and that the tax collection agent shall assume all obligations, rights, and responsibilities of its operators and plan managers with respect to their business activities conducted directly through the agent; (ii) imposes a surcharge on each transient accommodations broker; and (iii) allocates revenues collected under chapter 237D, Hawaii Revised Statutes (HRS), Transient Accommodations Tax, to the counties for compliance and enforcement of county ordinances regulating transient vacation rentals.

1. Section 6 of the bill on page 24 provides that a “transient accommodation broker shall remain subject to the conditions of Act 204, Session Laws of Hawaii, 2015, unless the transient accommodation broker enters into a tax collection agreement with the Director of Taxation.” Act 204, Session Laws of Hawaii 2015, provides for citations and monetary fines for failure to comply with requirements to display certain information, which may be obtained from the operators and/or plan managers. To the extent that section 6 of the bill may create liability for the tax collection agent if it posts information

obtained from an operator or plan manager on its website that turns out to be false, this section may be subject to challenge as being preempted by the Communications Decency Act, 47 U.S.C. § 230 (CDA). Section 230(c)(1) of the CDA states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” Section 230(e)(3) of the CDA also states in relevant part that “[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.” We respectfully recommend that the bill be amended to clarify that the tax collection agent is not liable for information provided by the operator or plan manager.

2. A tax must be applied “to an activity with a substantial nexus with the taxing State” under the Commerce Clause. Tax Appeal of Baker & Taylor, Inc. v. Kawafuchi, 103 Hawaii 359, 367, 82 P.3d 804, 812 (2004). The crucial factor governing nexus is whether the activities performed in this state on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain a market in this state for the sales. Id. at 368, 82 P.3d at 813 *citing* Tyler Pipe Indus., Inc. v. Washington State Dep't. of Revenue, 483 U.S. 232, 250, 107 S. Ct. 2810, 2821 (1987). This bill makes the registration of the transient accommodations brokers as tax collections agent mandatory (as opposed to permissive in prior drafts of the bill) and imposes a surcharge on each transient accommodations broker. These provisions may be subject to challenge under the Commerce Clause to the extent that not all transient accommodations brokers may have nexus with this State. This potential challenge may be minimized if the registration of the transient accommodation brokers was permissive as set forth in the prior drafts of this bill.

3. Subsection (h) of the new statutory section added to chapters 237 and 237D, HRS, in sections 2 and 3 of the bill on page 7, line 15, to page 8, line 10, and page 15, line 11, to page 16, line 5, provides that the Director of Taxation may cancel the tax collection agent's registration for any cause authorized by law and that the tax collection agent may cancel its registration, arguably, for any reason. With the exception of when a broker ceases to do business in the State, this appears to be



inconsistent with the wording of this bill that makes registration of transient accommodations brokers mandatory.

4. If this bill is intended to provide that the Director of Taxation may require a transient accommodations broker to furnish the information specified in subsection (g) of the new statutory section in sections 2 and 3 of the bill as a condition of “registering” as a tax collection agent (as opposed to “obtaining a license”), we recommend that those sections be clarified. For example, the second paragraph to subsection (g) of the new statutory section in sections 2 and 3 of the bill on page 7, lines 1-4, and page 14, lines 18-21, may be amended as follows:

The director may require ~~the~~ a transient accommodations broker ~~tax collection agent~~, as a condition of ~~obtaining a license~~ registering as a tax collection agent, to furnish with an annual return, a list including the federal tax identification number . . . .

5. If this bill is intended to require the transient accommodations broker to register as opposed to having the Director of Taxation require the transient accommodations brokers to register, we recommend that subsection (a) of the new statutory section in sections 2 and 3 be clarified. For example, subsection (a) of the new statutory section in sections 2 and 3 of the bill on page 2, lines 11-13, and page 10, lines 9-11, may be amended as follows:

~~The director shall require a~~ A transient accommodations broker ~~to shall~~ register as a tax collection agent on behalf of all of its operators and plan managers by . . . .



From: mailinglist@capitol.hawaii.gov  
 Sent: Monday, February 27, 2017 5:02 PM  
 To: FINTestimony  
 Cc: mavs19@aol.com  
 Subject: \*Submitted testimony for HB1471 on Feb 28, 2017 11:00AM\*

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Nelson	Individual	Oppose	No

Comments:

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)



**LATE**

HOUSE OF REPRESENTATIVES  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair

2/28/2017  
Rm. 308, 11:00 AM

HB 1471, HD 2  
Relating to Taxation

Chair Luke and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, to testify in opposition to HB 1471, HD 2 as presented.

Outrigger Hotels Hawaii does not oppose some reasonable self-collection of taxes authority for the TVU industry. What we do oppose is the industry combining this authority with measures that would legitimize practices making it easier to skirt the law and harder to identify and address illegal activities costing the state and counties millions in lost revenues.

HB 1471 HD 2 still lacks the transparency needed to positively assure that each and every TVU owner is paying its fair share of TAT and other taxes owed to the State of Hawaii for transient accommodations business activity.

Finally, HB 1471 HD 2 would gut the central requirement of HRS 237D-4, enacted just a few years ago, which requires that Transient Accommodations Brokers (TAB) must receive and post online a current TAT number for any unit listed. Instead, only the TAB number would be required. The obvious result of this change would be the continued listing online of suspected significant numbers of TVUs, which have not obtained TAT numbers and are not paying TATs.

The retention of Act 204, which requires individual TAT numbers to be listed on websites, even if AirBnB is the TAB and the requirement that before AirBnB lists or signs up as a TAB, it needs to get from each owner evidence from the county of zoning compliance would satisfy the transparency

These are requirements that we in the hotel industry live by every day, but AirBnB is fighting against these requirements to be included in any TAB bill. Why is AirBnB so afraid of requiring individual owners to prove that they are complying with our tax and zoning laws.

Thank you for allowing me to testify.



From: mailinglist@capitol.hawaii.gov  
 Sent: Monday, February 27, 2017 9:00 PM  
 To: FINTestimony  
 Cc: chinheng@chinheng.com  
 Subject: Submitted testimony for HB1471 on Feb 28, 2017 11:00AM

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Chin Lee	Individual	Support	No

Comments: Aloha Chair, I am testifying in support of the intent of HB1471 but am concerned about certain provisions - the mandatory requirement and the special surcharge. I suggest that in addition to mandatory requirement, provide an opt out clause for owner already with TAT and submit their own tax filing. For the special surcharge, it is not fair for smaller operators or owners to pay a surcharge. I urge you to pass HB1471 with amendment. The revenue generated can help the state to meet its budget shortfall and ensure everyone in this vibrant industry pays its fair share of taxes. Thank you for the opportunity to testify.

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)



**LATE**

Testimony of

Mufi Hannemann  
President & CEO  
Hawai'i Lodging & Tourism Association

House Committee on Finance

House Bill 1471, HD 2 – Relating to Taxation

Chair Luke, Vice Chair Cullen and committee members, we would like to **offer comments** on this measure on behalf of the more than 700 members of the Hawai'i Lodging & Tourism Association.

One of the major priorities of the Hawai'i Lodging & Tourism Association this legislative session is to create a level playing field between the short term online rental market and traditional visitor industry accommodations . This session House Bill 1470, which addresses the short term online rental parity issue, has been our priority bill. However we do not object to the intent of HB1471 as long as it addresses some of the concerns we raised through HB 1470. For instance, we appreciate the amendments that are offered in this bill's house draft 2, as it requires all transient accommodation brokers to register with the Department of Taxation or be subject to the conditions of ACT 204, and it specifies that the monies being allocated to the counties be used for compliance and enforcement of county ordinances regulating TVUs.

We would like to propose that further amendments be considered in creating more transparency, openness and accountability within the bill. We ask that the legislature look into strengthening provisions on the registration of transient vacation rentals and requiring hosting platforms to further provide detailed information to the department of taxation on the operators they are collecting on behalf of. We also ask for provisions in implementing reasonable fines that will hold the operators and hosting platforms more accountable for their registration with the department of taxation as well as their compliance with state and county laws.

One of the visitor industry's overarching objectives is for the state to start collecting the estimated \$100 million in taxes now being avoided, but with ample transparency as to where the taxes are coming from. We appreciate the dialogue and amendments that have taken place in regards to this measure and we respectfully request that the aforementioned comments also be considered through this committee's deliberations.

Thank you for the opportunity to offer comments.



From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 27, 2017 7:01 PM  
To: FINTestimony  
Cc: dwight.takamine@ilwulocal142.org  
Subject: Submitted testimony for HB1471 on Feb 28, 2017 11:00AM  
Attachments: hb 1471 hd 2.docx

**HB1471**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dwight Takamine	ILWU Local 142	Support	No

Comments:

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)