

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

February 7, 2017 at 9:00 a.m.
State Capitol, Room 423

In consideration of
H.B. 546
RELATING TO TAXATION.

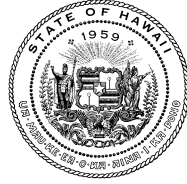
The HHFDC *supports the intent* of H.B. 546, but defers to the Department of Taxation on the feasibility of the proposed county surcharge on the transient accommodations tax, and the appropriateness of its use as a funding mechanism for the workforce housing development trust fund proposed in this bill.

The proposed trust fund would consist of accounts for each of the counties and could be expended by HHFDC only for the development of affordable workforce housing located within a 10 mile radius of a hotel or resort, with a preference for hotel industry employees, and which remain affordable in perpetuity.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

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

Date: Tuesday, February 7, 2017
Time: 9:00 A.M.
Place: Conference Room 423, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 546, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 546 and provides the following comments for your consideration.

H.B. 546, which is effective upon approval, authorizes the counties to adopt a county surcharge on the transient accommodations tax (TAT). The county surcharge, which will be capped at an unspecified amount, shall be levied no sooner than January 1, 2019 and shall sunset on December 31, 2034. If a county wishes to adopt a TAT county surcharge, it must enact an ordinance adopting the surcharge by December 31, 2017.

First, the Department notes that in Section 3 of the bill, subsection (a) provides that the Director of Taxation will have the power to determine the county in which a person is engaged in the business of furnishing transient accommodations. Additionally, subsection (f) provides that the Director of Taxation shall adopt rules specifying the taxation district to which the county surcharge on TAT shall be assigned. The Department suggests replacing these provisions with language that the county surcharge shall be assigned to the taxation district in which the transient accommodation is located. Specifically, the Department suggests amending subsections (a) and (f) as follows:

(a) The county surcharge on transient accommodations tax, upon the adoption of county ordinances and in accordance with the requirements of section 46-___, shall be levied, assessed, and collected as provided in this section on all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. No county shall set the surcharge on state tax at a rate greater than

_____ per cent of all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. All provisions of this chapter shall apply to the county surcharge on transient accommodations tax. With respect to the surcharge, the director of taxation shall have all the rights and powers provided under this chapter. [~~In addition, the director of taxation shall have the exclusive rights and power to determine the county or counties in which a person is engaged in the business of furnishing transient accommodations and, in the case of a person engaged in the business of furnishing transient accommodations in more than one county, the director shall determine, through apportionment or other means, that portion of the surcharge on transient accommodations tax attributable to business conducted in each county.~~]

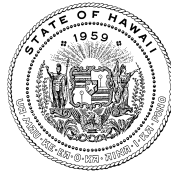
. . .

(f) The taxpayer shall [~~designate the taxation district to which~~] assign the county surcharge on transient accommodations tax [~~is assigned in accordance with rules adopted by the director of taxation under chapter 91.~~] to the taxation district in which the transient accommodation or resort time share vacation unit is located. The taxpayer shall file a schedule with the taxpayer's periodic and annual transient accommodations tax returns summarizing the amount of taxes assigned to each taxation district.

Second, the Department notes that this bill will require form, instruction, and system changes and estimates that it will be able to implement the necessary changes for taxable years beginning after December 31, 2018.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN COMMENTS

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON HOUSING
ON
HOUSE BILL NO. 546



**February 7, 2017
9:00 a.m.
Room 423**

RELATING TO TAXATION

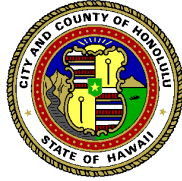
House Bill No. 546 authorizes counties to levy a county surcharge on the transient accommodations tax to fund workforce housing development in designated resort areas (located within a ten-mile radius of a hotel or resort) in their respective counties, provided that the housing shall remain affordable in perpetuity and preference shall be given to hotel industry employees who meet economic criteria established by the Hawaii Housing Finance and Development Corporation (HHFDC) of the Department of Business, Economic Development and Tourism. This measure also establishes the Workforce Housing Development Trust Fund, which shall contain a special account for each of the counties from which the HHFDC may expend for the development of workforce housing.

The Department of Budget and Finance questions the appropriateness of using the transient accommodations tax for housing as each county currently has the ability to raise revenues through county-based taxes to pay for county-specific debt.

Thank you for your consideration of our comments.

**OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

**CITY AND COUNTY OF HONOLULU
BEFORE THE HOUSE COMMITTEE ON HOUSING**

FEBRUARY 7, 2017; 9:00 AM

TO: THE HONORABLE TOM BROWER, CHAIR
THE HONORABLE NADINE K. NAKAMURA, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON HOUSING

FROM: ROY K. AMEMIYA, JR., MANAGING DIRECTOR
CITY AND COUNTY OF HONOLULU

SUBJECT: COMMENTS ON HB546 RELATING TO TAXATION

The City and County of Honolulu (City) appreciates the intent of HB546, which authorizes counties to levy a county surcharge on the transient accommodations tax to fund workforce housing in the county. As you know, there is a severe shortage of affordable and workforce housing on Oahu and the City is working diligently on addressing this issue.

The City respectfully requests that the bill be amended on page 9, lines 5 to 9, to clarify how the funds collected shall be allocated among the counties if only two or three counties adopt the required ordinances. For example, if only Kauai County and Maui County adopt the required ordinances and impose the surcharge, it appears that Kauai County would receive 14.5 percent of the funds and Maui County would receive 22.8 percent even though they contributed 100 percent of the surcharge revenues.

Thank you for your consideration of these comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, County Transient Accommodations Tax Surcharge

BILL NUMBER: HB 546

INTRODUCED BY: MCKELVEY, LUKE

EXECUTIVE SUMMARY: Authorizes each county to impose a transient accommodations tax surcharge for the development of workforce housing. However, the State would collect and spend the money, and the county's role appears to be extremely limited. This would create some home rule issues.

BRIEF SUMMARY: Adds a new section to HRS chapter 237D that provides that each county is authorized to levy, assess, and collect a monthly surcharge on both transient accommodation taxable revenues and on time share occupancy. The county tax would take effect beginning January 31, 2019. The department of taxation would be tasked with administering the county surcharge. The surcharge, once collected, would be paid into a workforce housing development trust fund. HHFDC would then spend the money to develop affordable housing projects in designated resort areas in each respective county.

EFFECTIVE DATE: Upon approval, provided that if no county adopts a surcharge by ordinance by December 31, 2017, the act is repealed at that time; otherwise, the act is repealed on December 31, 2034.

STAFF COMMENTS: This bill apparently is submitted in response to the constant wrangling between the State and the counties as to how much of the TAT should be distributed to the counties. The proponents of the bill seem to want to end the argument by telling the counties to go pass their own TAT and collect it by themselves if they want it so much.

By making the county TAT a surcharge rather than an independent tax, taxpayers are spared the pains of having different counties establish different tax bases, exemptions, and interpretations of the law.

However, it looks like the counties will have very little control over the money despite taking the political risk with their constituencies for adopting the taxing ordinance. Once imposed, the State collects the money and spends it. The county's role seems to be limited to designating the general areas in which the money could be spent.

It's probably an understatement to say that there are home rule concerns with this bill.

Digested 2/2/2017

SanHi Government Strategies

a limited liability law partnership

Gary M. Slovin
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DATE: February 3, 2017

TO: Representative Tom Brower
Chair, Committee on Housing
Submitted via Capitol Website

RE: **H.B. 546 – Relating to Taxation**
Hearing Date: Tuesday, February 7, 2017 at 9:00 a.m.
Conference Room: 423

Dear Chair Brower and Members of the Committee on Housing:

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

Wyndham **opposes** H.B. 546, which would authorize the counties to levy, assess and collect a monthly surcharge on gross rental or gross rental proceeds derived from furnishing transient accommodations in order to fund the development of workforce housing. The transient accommodations tax on timeshare vacation units, also known as the “transient occupancy tax” or “TOT,” is a tax on a percentage of property maintenance fees that are paid by a timeshare owner.

Granting this authority to the counties could result in a patch work of ordinances that would create uncertainty for timeshare operators, many of whom have properties across all four counties, as well as for timeshare owners. Wyndham prefers the current calculative approach that is determined at the State level and applied equitably across the counties.

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

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura
C. Mike Kido
Tiffany N. Yajima
Matthew W. Tsujimura



House of Representatives
Committee on Housing
The Twenty-Ninth Legislature
Regular Session of 2017

To: Rep. Tom Brower, Chair
Rep. Nadine K. Nakamura, Vice Chair

Date: February 7, 2017

Time: 9:00 a.m.

Place: Conference Room 423
Hawaii State Capitol

RE: House Bill 546 Relating to Taxation

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

Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation founded in 2011, representing 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 to 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 would like to voice our **opposition** to H.B. No. 546 for the following reasons.

1. H.B. 546 proposes to allow counties to adopt local ordinances imposing surcharges on the Transient Accommodation Tax for the purpose of developing a funding source for the development of workforce housing. It is noted that the primary named beneficiaries of such housing are “hotel industry employees who meet economic criteria.” RBOAA represents owners who pay their household and maintenance contractors at competitive local rates which are significantly higher than hotel industry wages. We would suggest that the industry that is creating the problem by paying employees less than a living wage should be assessed directly for any housing development deemed necessary to house their employees.
2. If a worker-housing fund were indeed to be established, it would be eminently unfair to favor hotel workers over other workers supporting the tourist industry such as

beauticians, restaurant workers, retail staff, tour and activity staff, or, indeed, any other working Hawaiian.

3. RBOAA believes singling out the transient accommodations sector for additional taxation is unfair and creates an additional burden on the tourism sector, which is unarguably the mainstay of the Hawaiian economy. If additional tax revenues are deemed necessary, the legislature should instead consider changes to the General Excise Tax that would spread the burden amongst all sectors of the economy.
4. While it may be politically expedient to increase taxes on non-voters, tourists do have options for tropical destinations and may “vote” to travel elsewhere if Hawaii becomes too expensive.
5. Counties do not have the authority to pass ordinances related to TAT. That power vests in the State of Hawaii and would require a constitutional amendment to change the division of powers between the state and the counties.
6. The development of affordable housing projects in designated resort areas would seem to be unnecessarily limiting in its targeted locations and would limit such housing’s usefulness to other types of workers. Designated resort areas, being tourist oriented, are generally not seen as desirable areas for full time permanent living.

RBOAA wishes to point out that the Hawaii Housing Finance and Development Corporation in fiscal year 2015, added 379 **workforce/affordable housing units while managing assets in excess of one billion dollars. (Page 2 Annual Report)**. This agency is already funded through the State Budget and Federal funding. Additionally, since 2006 the HHFDC facilitated in the development of 6,807 affordable rental and for-sale units statewide and plans for 5,801 more units by fiscal year 2020.

The issue of workforce housing has been funded since 2006. It is unnecessary to seek funds from transient accommodation operators.

Thank you for the opportunity to testify on this measure.

Sincerely,

Meera Kohler
Co-President
Rentals by Owner Awareness Association

Dear Representatives;

This letter is written to voice Opposition to this proposed bill. The bill is an attack solely on investment property and vacation rental owners which add great value to your tourism industry. My business provides accommodations for visitors travelling to the beautiful island of Maui. With the collapse of the pineapple industry and now the end of the sugar cane industry, the only viable but fragile industry left is Tourism. The tourism industry provides a high income for the state and local businesses. When there is a hit to the tourism industry there is an extreme ripple effect that hits every business on the island. Currently, the GE Tax is 4% and the TA Tax is 9.25%. These bills will increase the TA Tax to 17.25%, which will result in a total tax of 21.25%. These increases in tax do not take into account the added surcharges and fees proposed which will add a substantial increase. An increase such as this will now cause some tourists to re-think their vacation destination. Let us not forget that Cuba is now open to the U.S traveler and the Canadian dollar is very low. Vacationers look to Maui for beach, sun, water and security. Cuba offers all of this for 1/3 – ¼ of the price and is mainly an all-inclusive destination, which is an invitation to the travelling public not a deterrent. This bill also limits the short-term rental to 60 days per year, and the total number of properties an owner can own is one. This is unbelievable. On one hand you state that the increases are necessary, because there are insufficient funds. Then you proceed to limit the number of days the property can be rented, which will result to 1/6 the amount of taxes you would receive. Limiting the number of properties one can own, well I must state I cannot comprehend the rationale behind that.

There are several bills being presented this year that relate to Vacation Rental Accommodations. Let me present a short synopsis of this:

- HB 1470, 4% increase in TA Tax
60 day Rental limit
Ownership kept to only 1 property
- HB 546, 4% increase in TA Tax
- HB 180/SB 686, property surcharge ranging from \$3.50 - \$7.50 per \$1000 of property value
\$5.00 per night tax
- HB 1453/SB 1143, \$20 per night per guest fee

To sum this up, a vacationing couple staying for 14 nights in a property valued at \$380,000 and at a rental rate of \$150/night would currently pay \$2378.25. After all proposed increases, the same couple would pay \$2724.15 which relates to an increase of \$345.90. Remember, this is based on the accommodation being able to rent for 365 days of the year, not the 60 days as per HB 1470. An income for 60 days verses 365 days, the vacationer would now have to pay 6 times the amount as the owners still have their expenses to pay (\$154/day based on a full year of rental verses \$924/day based on 60 days of rental). I would think that the majority of you have gone on a vacation at one time or another; would you be willing to pay \$924.00/night (for a \$154/night room) plus food, air fare, car rental, tours, groceries and souvenirs? Do you think that raising the nightly fee to \$924/night is outrageous; I do its incomprehensible without effects to the tourism industry. I would not pay it and I don't think you would either, but someone would have too or the owners would be forced to sell.

Metaphorically speaking, you are loading a gun with these proposed changes and you will shoot yourself in the foot. These proposals will collapse the tourist industry, which will result in businesses closing, causing unemployment to rise and there will be NO money going to the state. The burden of financing the state will rest solely on the residents. You will see numerous vacation properties go up for sale, which will in turn saturate the market with an abundance of properties causing a collapse of property values.

The majority of Vacation Rental Owners have fully supported Hawaii for many years. With these continuous unrelenting attacks on the Vacation Rental Industry every year, I think many owners and companies may think it is time to liquidate their properties in Hawaii and invest in a country or state that appreciates the support of their tourism industry.

In closing, let me be clear, I understand the problem with some Vacation Rental owners not paying the taxes they have collected or should be collecting on behalf of the state. If they are collecting taxes on behalf of the state and then keeping it, they are blatantly committing Fraud and Theft, and should be charged as per the law and charges under the tax evasion laws. There are many Vacation Rental Owners that do comply with the states wishes and yet they are the ones that are being punished. There are laws in place already yet they do not seem to be enforced.

I believe if you criticize you should also provide a solution. My suggestions are as follows:

1. Legislate that all resort properties are legally responsible to supply a list of all Vacation Rentals within their resort plus provide a list of the rental dates for each unit. This is easy to do, as a tourist notifies the resort that they are there, and the resort keeps a log.
2. Give an incentive to people who report non-compliant owners and companies.
3. Apply to the Federal Government for increased education transfer payments.
4. Government should look within itself and stop unnecessary and wasteful spending. Then redirect the funds to Education and Homeless Programs
5. Create a 10% Education surcharge on all alcohol purchases.

We need to work together for a solution that takes all parties into consideration and provides for a less invasive result to the tourism industry.

Yours Truly;

Ronald Bridges, President

Bridges to Paradise Rentals Inc.

bridgestoparadise@live.com

Randolph G. Moore
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February 5, 2017

The Honorable Tom Brower, Chair
and members of the Committee on Housing
House of Representatives
State Capitol
Honolulu, HI

Dear Representative Brower and members of the Committee:

Subject: HB 546 (relating to taxation – county tax on transient vacation rentals)

HB 546 addresses a serious shortage of housing, but it would be less effective than legalizing transient vacation rentals and subjecting them to resort/hotel property tax rates, as are visitor accommodation units in hotel/resort-zoned districts. Currently-illegal transient accommodation units would then pay general excise and transient accommodations taxes to the state and would pay real property taxes to the counties at rates paid by hotels in hotel/resort-zoned districts instead of at residential rates.

In addition HB 546 favors hotel workers when all types of workers are adversely affected by the housing shortage.

Many of the vacation rentals are unlicensed (from a GET and TAT standpoint) because they are not allowed by the counties to operate as vacation rentals. It is clear that this strategy has not had any control on the proliferation of vacation rentals, which crowd out long-term tenants and exacerbate the housing shortage.

Just for fun, I Googled “vacation rentals Sunset Beach Hawaii” this evening and at the “vacation rentals by owner” site found 1,265 rentals. This is just one of several websites that pop up under “vacation rentals Sunset Beach Hawaii.” Here’s the URL if you’d like to check it out → <https://www.vrbo.com/vacation-rentals/usa/hawaii/oahu/north-shore/sunset-beach>

There are tens of millions of dollars of untapped taxes (GET, TAT, real property) available annually to the state and counties for housing and for the homeless. Why not just collect the taxes that ought to be paid instead of adding a surtax to those who are already paying?

The counties could unleash these potential fiscal resources by (i) legalizing bed-and-breakfasts and vacation rentals and (ii) subjecting these properties to hotel/resort real property tax rates.

Mahalo for your consideration.