

# SB1202

Measure Title: RELATING TO TAXATION.

Report Title: Short-Term Rental Lodging; Hosting Platforms; Transient Accommodations; Reporting Requirements; Taxation; Excise Tax; Counties

Description: Allows hosting platforms registered with the department of taxation to act as tax collectors on behalf of the short-term rental lodging operators and applies the general excise tax on short-term rental lodging. Requires hosting platforms to report detailed operator information, including addresses and number of booking transactions, with the filing of tax returns and requires short-term rental lodging operators to keep records of each booking transaction for a period of at least three years. Limits the number of short-term rental lodging units that can be registered by any one operator and sets a cap of the number of nights permitted. Creates a surcharge on short-term rental lodging in the State to fund supportive services for Hawaii's homeless.

Companion: [HB1470](#)

Package: None

Current Referral: CPH/ETT, WAM

Introducer(s): WAKAI, INOUYE, KIDANI, S. Chang, Dela Cruz, Espero, Gabbard, Galuteria, Ihara, Keith-Agaran, Taniguchi

**DAVID Y. IGE**  
GOVERNOR

**SHAN TSUTSUI**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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**MARIA E. ZIELINSKI**  
DIRECTOR OF TAXATION

**DAMIEN A. ELEFANTE**  
DEPUTY DIRECTOR

To: The Honorable Glenn Wakai, Chair  
and Members of the Senate Committee on Economic Development, Tourism, and  
Technology

The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce, Consumer Protection, and  
Health

Date: Friday, February 3, 2017  
Time: 1:25 P.M.  
Place: Conference Room 414, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 1202, Relating to Taxation

The Department of Taxation (Department) has concerns regarding S.B. 1202 and provides the following comments on for your consideration.

S.B. 1202, which is effective upon approval and applies to taxable years beginning after December 31, 2018, regulates hosting platforms, defined as any person or entity that facilitates reservations or collects payments on behalf of an operator through an online digital platform, and short-term rental lodging, defined as accessory or secondary use of a residential dwelling unit by an operator to short-term lodgers for less than 180 consecutive days. The following is a summary of key provisions of the bill:

Registration of Short-Term Rental Lodging

- Operators will be required to indicate on the registration application whether they are renting short-term rental lodging units and provide the address of the unit.
- Operators will be limited to registering one short-term rental lodging unit.

Restrictions on Short-Term Rental Lodging

- A short-term rental lodging unit shall not be rented for more than 60 calendar days total per year.
- An owner or occupant of a residential dwelling unit who receives affordable housing funds for the unit shall not advertise or rent the unit as a short-term rental lodging unless the owner or occupant resides in the unit.

### Registration of Hosting Platforms

- A hosting platform will be required to pay an annual fee of \$10,000 for the right to do business in the State as a hosting platform.

### Advertising of Short-Term Rental Lodging

- Hosting platforms will be prohibited from listing short-term rental lodging units unless the operator demonstrates that it is in compliance with land use, zoning, and tax requirements.
- Hosting platforms will be required to remove any listing for short-term rental lodging units if (1) the listing does not provide the registration number for the unit; (2) the operator fails to attest that the unit is in compliance with land use, zoning, and tax requirements; or (3) the hosting platform receives written notice from the state or county that the operator or short-term rental is not in compliance with land use, zoning, or tax requirements.
- Hosting platforms will be subject to fines for failing to remove listings as described above.

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

- A four percent TAT surcharge will be imposed on short-term rental lodging in the State.

### Hosting Platforms as Tax Collection Agents

- Hosting platforms may register with the Department as tax collection agents.
- As registered agents, the hosting platforms will be required to report, collect, and pay general excise tax (GET) and TAT on behalf of all of its short-term rental lodging operators for bookings made directly through the registered agent.
- The registered agent's operators will be required to be licensed under chapters 237 and 237D, Hawaii Revised Statutes (HRS).
- With each return, the registered agent will be required to provide the name, address, and tax identification number of each operator on whose behalf it collected taxes, the address of each short-term rental lodging unit for which a booking transaction was made, the number of transactions for each unit, the number of days each unit was rented, and the gross rental for each unit.

First, the Department has concerns that S.B. 1202 requires the Department to police unlawful activity having no relationship to tax. The purpose clause itself states that the purpose of this bill is to “[e]liminate illegal short-term rental lodging.” The Department understands the desire to eliminate unlawful activity, but this is not the function of the Department. The Department’s function is to collect taxes and enforce compliance with the tax laws, not to determine when an act is unlawful and enforce compliance with non-tax laws. All of the laws in title 14, HRS, discuss how or when an activity will be taxed and aid in the Department’s enforcement of the tax; nothing in title 14, HRS, makes an income-producing activity unlawful.

The provisions of this bill that regulate short-term rentals should be placed in other areas of the HRS, not in title 14. Otherwise, the Department will be placed in situations where it may need to prioritize enforcement of non-tax laws above its duty to collect taxes. For example, if an operator has more than one short-term rental lodging unit, and is therefore precluded from registering additional units, the Department may be forced to forego collecting taxes on those additional units.

An operator who is unlawfully renting a short-term rental unit owes taxes on the unlawful transaction regardless of the legality of the underlying activity, just as an unlicensed contractor operating without proper permits is still liable for taxes resulting from the unlawful contracting activity. The Department cannot monitor and enforce laws that are unrelated to tax, especially when doing so would hinder the Department's primary function of collecting taxes.

Second, the Department notes that section 7 of the bill, which expands the advertising requirements in section 237D-4, HRS, by adding a new subsection (i), which requires hosting platforms to remove listings that fail to meet certain requirements, may violate the federal Communications Decency Act of 1996. The Department defers to the Department of the Attorney General on this issue.

Third, section 7 of the bill, which amends section 237D-4(a), HRS, by prohibiting operators from registering more than one short-term rental lodging unit, would prohibit operators with multiple short-term rental units, all of which are compliant with land use and zoning laws, from registering all of their legal units. The Department notes that this may present a Due Process issue and defers to the Department of the Attorney General.

Fourth, with respect to the provision allowing a hosting platform to register as a tax collection agent, the Department notes that, in general, permitting hosting platforms 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.

However, unlike section 237-9(e), which provides that the direct sellers of the tax collection agent are deemed to be licensed for business activity conducted directly through the tax collection agent, this bill requires all of the operators of the registered agent to obtain a license. This provision is unnecessary and will result in flawed data, as there will be numerous licenses that will appear to be noncompliant.

Fifth, the Department has concerns regarding the \$10,000 annual fee that is imposed on hosting platforms for "the right to do business in the State." It is unclear what this fee is intended to cover, as a fee is generally exchanged for a service or benefit and the amount normally bears a relationship to the value of the service or benefit, whereas a fine is generally a retributive payment meant to financially punish the payee.

Finally, the Department notes that this bill would require the Department to expend significant resources to implement the numerous changes, such as creating subcategories for TAT licenses and making form and system changes for the TAT surcharge and registration of tax collection agents, in exchange for little to no revenue gain.

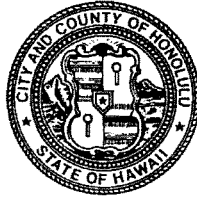
As previously stated, the admitted goal of this bill is to eliminate short-term rentals. Accordingly, if this bill become law, short-term rentals will either cease to exist or will become completely non-compliant with the tax laws. In either case, the Department will have expended significant resources without any corresponding increase in tax collection.

Thank you for the opportunity to provide comments.

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

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KIRK CALDWELL  
MAYOR



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

February 3, 2017

The Honorable Glenn Wakai, Chair  
and Members of the Committee on  
Economic Development, Tourism  
and Technology

The Honorable Rosalyn H. Baker, Chair  
and Members of the Committee on  
Commerce, Consumer Protection  
and Health

Hawaii State Senate  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Dear Chairs Wakai and Baker, and Committee Members:

Subject: Senate Bill No. 1202  
Relating to Taxation

The Department of Planning and Permitting (DPP) **opposes, as drafted**, Senate Bill No. 1202, which would allow transient accommodations hosting platforms 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 intent to eliminate illegal short-term rentals, 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 7, Paragraph (c), (2), which would require the operator or plan manager of the property being used for transient accommodations to attest that "that the operator and the short-term rental lodging unit are in compliance with applicable land use, zoning, and tax requirements, including any and all applicable county ordinances and requirements." 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

The Honorable Glenn Wakai, Chair  
and Members of the Committee on  
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House Bill No. 1202

February 3, 2017

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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.

We also support the requirement that the transient accommodation operator or manager register with the State the name and address of each short-term rental unit. But we request that this list be made available to the counties, as it would contribute to the preponderance of evidence that we require to prove that the use, illegal or legal, is ongoing.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Sokugawa", with a long, sweeping flourish extending to the right.

Kathy Sokugawa  
Acting Director

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# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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**SUBJECT:** GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Hosting platforms as Tax Collection Agents; Surcharge on Short-Term Rental Lodging

**BILL NUMBER:** SB 1202; HB 1470 (Identical)

**INTRODUCED BY:** SB by WAKAI, INOUE, KIDANI, S. Chang, Dela Cruz, Espero, Gabbard, Galuteria, Ihara, Keith-Agaran, Taniguchi; HB by ONISHI, BROWER, CHOY, DECOITE, EVANS, ITO, JOHANSON, NAKASHIMA, QUINLAN, TODD, TOKIOKA, YAMASHITA, Creagan, Say

**EXECUTIVE SUMMARY:** Allows a hosting platform 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. Also creates a surcharge on short-term rental lodging to fund homeless services.

**BRIEF SUMMARY:** Adds a new section each to HRS chapter 237 and chapter 237D allowing the director of taxation to permit a hosting platform to register as a tax collection agent on behalf of all of its operators and plan managers. Defines “operator” and “plan manager” the same as in the TAT law.

Upon successful registration as a tax collection agent, the platform 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 platform. Registration does not relieve the platform 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 platform.

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

The platform’s periodic and annual returns as collection agent shall include a schedule listing (A) the name, address, and general excise tax number of each operator for whom the hosting platform collected taxes; (B) with respect to each operator, the address of each short-term rental lodging unit for which a booking transaction was facilitated by the hosting platform during the applicable period; and (C) for each such short-term rental lodging unit, for the applicable period, the total number of booking transactions, the total number of days rented, and the gross rental or gross rental proceeds.

A platform 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.

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 hosting platforms.

Amends HRS section 237D-1 to add several new definitions and to delete the current definition of transient accommodations broker.

Amends HRS section 237D-2 to impose upon each booking transaction for short-term rental lodging a surcharge of 4% of the gross annual or leasing charge.

Amends HRS section 237D-4 to limit each operator to one short-term rental lodging unit. Operators under common control are deemed one operator.

Also provides that no short-term rental lodging unit shall be listed on a hosting platform unless the operator first demonstrates to the hosting platform that the operator and the short-term rental lodging unit are in compliance with this chapter and other applicable land use, zoning, and tax requirements, including any and all applicable county ordinances and requirements, and including, without limitation, by providing the hosting platform with its TAT registration number and by attesting that the operator and the short-term rental lodging unit are in compliance with applicable land use, zoning, and tax requirements, including any and all applicable county ordinances and requirements.

Requires a hosting platform to remove any listing for a short-term rental lodging unit in the State if (1) the operator fails to list the host's TAT number; (2) the operator fails to attest to compliance with applicable land use, zoning, and tax requirements, including applicable county ordinances and requirements; or (3) if the hosting platform has received written notice from a state or local governmental authority that the operator or short-term rental lodging unit has failed to comply with applicable land use, zoning, or tax requirements. Imposes fines for noncompliance.

Requires a hosting platform to pay an annual fee of \$10,000.

Prohibits short-term rental lodging use in excess of 60 days total per year for each registered short-term rental lodging unit.

Unless the owner or occupant is residing in a residential dwelling unit while renting out other bedrooms in the dwelling, prohibits the dwelling from being advertised or used as short-term rental lodging, if the owner or occupant of such dwelling has received affordable housing funds with respect to such dwelling from the federal, state, or local government, including section 8 housing assistance, housing choice vouchers or rent supplements pursuant to chapter 356D, low or moderate income homeowners loans for home repair, rehabilitation, down payments, solar installation, or other similar programs.

EFFECTIVE DATE: Applies to taxable years beginning after December 31, 2018.

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 hosting platforms 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 allow the platform 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 platform, the platform 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 similar measure, 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 platforms and demand that the platforms stop encouraging and facilitating such illegal, anti-societal, and morally depraved activity.

But do we really want a withholding agent to be our brother's keeper? Is it right to ask our employers to call up our banks and credit card companies to see if we are current on our mortgage and paying our bills on time? If we aren't timely or break the law, should we blame our employers for facilitating illegal or immoral activity by paying us our wages (after the tax authorities have, of course, gotten their share) instead of first making sure that those monies are applied to payment of our debts?

At some point, we need to recognize that TVR hosts, like most employees, are adults. They have chosen to go into business, and they are responsible for running their business and all that it entails. They, as the property owners, are answerable to the counties for the use or misuse of

those properties. Certainly, the platforms need to be aware of and compliant with laws that pertain to their business if they are going to be doing business here. But it seems a bit much to ask the platforms to be policemen for the counties when the counties, for whatever reason, can't or won't enforce their own zoning laws.

Ultimate responsibility as to both State tax and county zoning laws rests with the owners of the accommodations, not the platform. This bill requires the platform to inform the owner or plan manager about county level compliance, and requires the owner or plan manager to attest to that compliance. In fact, owners may be in varying degrees of compliance with the zoning laws just as they are in varying degrees of compliance with the tax laws. The platform is not in an efficient position to police the former, but effectively can do something about the latter because money from the transient guests flows through the platform's system.

If the State's goal in enacting this measure is to increase tax collections by making it harder for individual hosts to evade or avoid general excise or transient accommodations tax responsibilities, then it should make the registration process for platforms easier, not harder. If the registration process is seen as onerous or burdensome, then platforms might not want to register, hosts might be motivated to take their business away from a registered platform to an unregistered one, or both.

Digested 1/31/2017

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 11:59 AM  
**To:** CPH Testimony  
**Cc:** coalitionforequaltaxation@gmail.com  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b>          | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|------------------------------|---------------------------|---------------------------|
| John Chang          | Coalition for Equal Taxation | Oppose                    | No                        |

Comments: On behalf of the Coalition for Equal Taxation please defer SB1202. Vacation rentals have existed in Hawaii for many decades. They were approved by the counties to be legal to operate in designated vacation/resort zones. They were sold as second homes and have been paying property taxes at resort rates for many years. Many condo-hotels operate within these condominium communities. Limiting vacation rentals to 60 days does not have any impact on permanent resident housing stock. The proposed surcharge is an unequal burden on one group, but not everyone who offers vacation rentals would have to pay it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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The Senate  
The Twenty-Ninth Legislature  
Regular Session of 2017

To: Sen. Glenn Wakai, Chair  
Sen. Brian T. Taniguchi, Vice Chair  
Sen. Rosalyn H. Baker, Chair  
Sen. Clarence K. Nishihara, Vice Chair

Date: February 3, 2017

Time: 1:25 p.m.

Place: Conference Room 414  
Hawaii State Capitol

**RE: Senate Bill 1202, Relating to Taxation**

Chairs Wakai and Baker, Vice Chairs Taniguchi and Nishihara and Members of the Committees:

*Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation founded in 201, representing over 1000 members. Our mission is to provide Hawaii 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 full enforcement of existing regulations.*

RBOAA supports the concept of allowing a transient accommodation broker to act as a tax collection agent. RBOAA recognizes the resource constraint in the Department of Taxation which affects the ability to pursue tax collection, and supports proposals which assist in the collection of taxes without undue burden on the taxpayer or the state. RBOAA also supports compliance with county land use laws. RBOAA also applauds the significant improvements made to this bill since the 2016 session.

However, RBOAA must **STRONGLY OPPOSE** the bill. There are numerous issues of clarity, of purpose and of efficiency with this bill.

## 2 | SB 1202 RELATING TO TAXATION

1. The bill does not define the term “commercial operator” leaving it unclear which operators are considered to be a problem and which are not.
2. The bill needs to have a much clearer distinction between “short-term lodging” and “transient vacation rental”.
  - a. The term “accessory or secondary use of a residential dwelling unit” is creating confusion. It will be useful to include clarification stating “*If the primary use of a residential dwelling unit is for transient accommodation or transient vacation rental, it is considered to be transient accommodation and not considered to be short-term lodging.*”
  - b. RBOAA does not object to the creation of “short-term lodging” to extend the types of accommodation considered to be transient accommodation. However, the wording must be clear so as to not inadvertently cause restrictions on the types of accommodation considered legal transient accommodation.
3. *If the definition of short-term lodging is intended to include currently legal transient accommodation, the application of the 60 day per year cap and the 1 unit per owner cap will have significant negative impacts on currently legal vacation rental property owners. Property values will decrease markedly as legal vacation rental properties have been zoned, used, bought and sold as such for many years.*
  - a. To prohibit an individual's right to continue to use their property for the purpose for which the purchased it for, is or may be, a form of "taking" – i.e. the State's confiscation of privately owned real property
4. The 4% surcharge, as applied only to short term lodgings, is fair only in circumstances where the operator is paying residential property tax rates. Legal transient accommodation operators are already, and fairly, paying significantly higher than residential property tax rates.
5. Limiting short term lodging to only 60 days per year seems arbitrary and will do nothing to solve a homelessness or housing issue as people need certainty of tenancy, not tenancy for 305 days a year.

RBOAA has made other recommendations in the testimony for SB1087 and SB1281 which are repeated in this testimony.

1. Add wording stating:

“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 transient accommodation broker is paid by the State of Hawaii or any county for the tax collection service.”



2. Remove the requirement to obtain certifications from the relevant county agency and use the attestation requirement from SB 1087. Obtaining certifications will be an extremely onerous burden on the county staffing resources.

Thank you for the opportunity to testify on this measure.

Sincerely,

Neal Halstead  
President,  
Rentals by Owner Awareness Association

The Twenty-Ninth Legislature  
Regular Session of 2017

THE SENATE

Committee on Economic Development, Tourism, and Technology

Senator Glenn Wakai, Chair

Senator Brian T. Taniguchi, Vice Chair

Committee on Commerce, Consumer Protection, and Health

Senator Rosalyn H. Baker, Chair

Senator Clarence K. Nishihara, Vice Chair

State Capitol, Conference Room 414

Friday, February 3, 2017; 1:25 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1202  
RELATING TO TAXATION

The ILWU Local 142 supports SB 1202, which allows hosting platforms registered with the department of taxation to act as tax collectors on behalf of the short-term rental lodging operators and applies the general excise tax on short-term rental lodging. It further requires hosting platforms to report detailed operator information, including addresses and number of booking transactions, with the filing of tax returns and requires short-term rental lodging operators to keep records of each booking transaction for a period of a least three years.

S.B. 1202 establishes a structure for hosting platforms to collect taxes that are due and owing from short-term rental operators. The bill also creates clear disincentives, both civil and criminal, to prosecute those who illegally attempt to profit from short-term rental lodging activity without complying with State and County laws.

For those who attempt to become operators, without complying with all land use, zoning, and tax laws, including all applicable county ordinances, strict and substantial fines as well as misdemeanors are consequences provided in the bill. These penalties should lead to lessening the number of illegal operators and convincing a number of them to become compliant, legal operators of short-term rental lodging. Because of the high cost of housing in Hawaii, lessening the number of illegal units on the market will provide a clear benefit for our State by increasing the number of units available for rental.

S.B. 1202 also provides for greater accountability by requiring that the hosting platform provide detailed information about the operators they represent to the tax department. This information, including names, addresses, and general excise tax number of each operator, and the address of each rental unit, the total number of booking transactions, the total number of days rented, and the gross rental or gross rental proceeds, will allow the department of taxation to track the revenues from these activities more accurately. The information will also allow better monitoring of the short-term rental lodging industry.

It is estimated that a substantial amount of revenues are being lost to the State due to the number of illegal units on the market. Under S.B. 1202 some of the additional revenues that would be



collected may assist in dealing with the homeless challenge. Adjustments in both the GET and TAT as they apply to the short-term rental lodging industry should increase the level of the State's General Fund.

S.B. 1202 will contribute to improving the situation in our state by (1) addressing the problem of illegal operators in the short-term rental lodging industry, and (2) helping to provide additional revenues to address the many needs of our state.

The ILWU urges passage of S.B. 1202. Thank you for the opportunity to share our views and concerns on this matter.

howu



February 2, 2017

Senator Glenn Wakai  
Chair Committee on Economic Development, Tourism, and Technology  
Senator Brian T. Taniguchi  
Vice Chair, Committee on Economic Development, Tourism, and Technology  
Senator Rosalyn H. Baker  
Chair Committee on Commerce, Consumer Protection, and Health  
Senator Clarence Nishihara  
Vice Chair, Committee on Commerce, Consumer Protection, and Health  
Members of the Joint Committees

RE: SB 1202 - Testimony in Favor

Good afternoon. My name is Jason Ito, Director of Labor and Community for Kyo-ya Management Company, Ltd. We represent the Osano family in Honolulu, and asset manage the properties of the Sheraton Waikiki, Royal Hawaiian, Moana Surfrider, Princess Kaiulani, and the Sheraton Maui in the State of Hawaii.

I am providing testimony in favor of SB 1202.

Our hotel industry and the collection of the GET and TAT has been impacted with rental lodging units in the State of Hawaii, which compete with our pure hotel room accommodations. We create job opportunities towards long term employment and taking care of our employees, and we continue to strive to be great stewards of our hospitality industry in the perpetuation of our Hawaiian culture, and our community. With airline seat projections being flat, year-over-year, these types of alternative accommodation bookings impact us from increasing the collections of the GET and TAT as they compete for the airline seats and take away hotel accommodation reservations, which eventually impact hotel occupancies and job creation opportunities. Nevertheless, we recognize that Hawaii and other States do not have an approach or long term solution, and, in the interim, the importance to increase taxable income to the State must be addressed in order for both the Legislative and Executive branch to continue supporting the needs of our community.

We in the hotel industry continue to maintain vigilantly, the safety and security of our destination, which continues to support our repeat visitors to the islands. We hope that through this process of SB 1202, the same will be created and developed for the betterment of our neighborhood communities.

Aloha,



Jason Ito



OAHU ALTERNATIVE  
LODGING ASSOCIATION  
CITIZENS FOR A SHARED ECONOMY

Senate Economic Development, Tourism, and Technology Committee  
And  
Senate Commerce, Consumer Protection and Health Committee

Friday, February 3, 2017, 1:15 pm  
Room 414

**OPPOSE: SB1202, RELATING TO TAXES**

Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:

My name is David Moyer, 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 strongly oppose SB1202. We recognize and agree that a level playing field is needed that ensures short-term rentals are paying their taxes just as hotels and resorts do. We also believe the state can benefit greatly from the potential tens of millions of dollars in revenue generated by allowing platforms to collect and remit taxes. However, many of the provisions contained in this bill will have a lasting and chilling effect on the short-term rental industry. Furthermore, the land use provisions contained herein are an over reach and undermines county authority over these matters. In addition, the bill unfairly asserts short-term rentals are the cause of homelessness and the housing shortage. There are no studies or data to support these assertions. We would suggest that homelessness is everyone's responsibility and that all citizens and businesses should pay a surcharge to address this issue, including hotels and residents.

Another set of provisions places caps on the number of nights and the number of units that can be managed by a single operator. This heavy-handed approach would impact many condo-hotel operators and property managers.

Fundamentally, we should recognize:

**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 report last year from Airbnb, just the third largest travel platform in the islands, indicated their guests generated \$353 million in economic activity in Hawaii. If combined with other platforms, we might expect more than triple that figure in economic impacts from short-term rentals overall.

In addition, we should understand that:

Land Use Permitting Is So Complex It's Nearly Unenforceable

- In 1989, the Honolulu City & County halted the practice of issuing new permits for short-term rentals. Only 809 permits exist, all of them grandfathered for nearly 30 years.
- Yet, there are over 6,000 alternative accommodations on Oahu according to the Hawaii Tourism Authority.
- Enforcing compliance with this outdated permitting process would potentially wipe out hundreds of millions of dollars in economic activity from these units.
- Currently, the City's Land Use Ordinance defines short-term rental as less than 30 days. This has been widely interpreted, even by those in the City's Department of Planning and Permitting, to allow short-term rentals not to exceed once every thirty days. However, there would be no practical way to enforce this provision.
- Zoning and land use laws vary widely by county.
  - Hawaii County fully allows short-term rentals in residential zoning.
  - Maui's permitting process is so complex that it remains difficult for many to even apply. Here's an example of just one provision:
 

*“An applicant can hold only one short-term rental home permit, except when: additional permits are for short-term rental homes that each have a county assessed market value of \$3,200,000 or higher at the time of each application; and permit holder files complete applications for the short-term rental home permits within one year of this chapter's original effective date.”*
  - Kauai has placed a moratorium on new permits for the past several years and has yet to update a permitting process.

Permitting for short-term rentals has long been outdated and ill suited for the modern economy and today's travel tastes. However, OALA believes that permitting and registration are needed but these rules should be updated and enforced by the counties rather than the state.

Thank you for the opportunity to testify.



S.B. 1202  
Hearing Date: February 3, 2017  
Hearing Time: 1:25 p.m.  
Hearing Location: Conference Room 414

Gerard C. Gibson  
Area Vice President

Testimony in Support of S.B. 1202

Dear Chair Wakai and Members of the Economic Development, Tourism and Technology Committee:

Hilton writes to express our strong support for S.B. 1202, relating to taxation and short-term rental lodging. Hilton supports the proposed legislation for the following reasons.

First, the proposed legislation advances transparency and compliance with existing laws by requiring registration of short-term rental lodging units and operators as part of the transient accommodations tax registration process. The bill also contains record retention requirements and detailed reporting requirements with respect to the underlying booking transactions in connection with general excise and transient accommodations tax returns. These requirements, together with the Department of Tax's authority to conduct audits, allow the State to determine whether short-term rental lodging operators and hosting platforms are properly reporting and remitting all taxes due. The proposed legislation would prohibit any short-term rental lodging unit from being listed on an online hosting platform until the operator of the unit first demonstrates to the hosting platform that the operator and the unit are in compliance with applicable laws, including by providing the hosting platform with the unit's registration number and by attesting to compliance with applicable land use, zoning, and tax requirements.

Second, the proposed legislation includes measures aimed at eliminating illegal short-term rentals. Hopefully, the proposed legislation will mitigate the serious decrease of affordable rental housing available for Hawaii's residents. The bill also provides direct assistance to Hawaii's homeless by generating revenues for supportive services and housing for chronically homeless.

Third, the proposed legislation would create greater parity by strengthening enforcement of general excise tax, transient accommodations tax, and land use laws with respect to hosting platforms and short-term rental operators. Like hotels, motels, and other transient accommodations, hosting platforms and short-term rental operators should also pay the applicable taxes and comply with land use laws.

Thank you for your consideration of Hilton's position.

Mahalo nui loa,

A handwritten signature in black ink, appearing to read 'Gerard C. Gibson', with a long, sweeping flourish extending to the right.

Gerard C. Gibson  
Area Vice President  
Hilton Hawaii



Official Sponsor

2005 Kalia Road, Honolulu, HI 96815  
Tel: 808 949 4321 Direct Line: 808 941 9226  
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1 February 2017

Honolulu, Hawaii

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

Chairs Senator Wakai, Senator Baker and honorable members of the Committee:

My name is Mark Hagadone and I am testifying **in opposition** of SB 1202. 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, when visiting. Doing so provides us with extra income that I use to make ends meet. It helps to pay for our children's college, mortgage and property taxes. This is especially important since I am 65 and will soon retire.

Additionally our Ohana unit used in this manner places **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.

I was raised in the islands, grew up in Kaimuki, graduated from Kalani HS and the University of Hawaii and have faithfully provided the citizens of the State of Hawaii with small business employment and Income taxes for the past 60+ years. We all know how difficult it can be to make ends meet on a fixed income. The revenue generated from this sustainable business model can help the State to meet its budget shortfall.

I **oppose** SB 1202 because ***it will make it harder*** for all of us to conduct this sustainable enterprise when the laws regarding specific land use compliance are still being contested and debated by the legislature and community. It will in effect, act to kill this sustainable, non-polluting visitor friendly industry, eliminating an important revenue generating tax source for the State and Citizens of Hawaii.

Thank you for the opportunity to testify.

Mark R. Hagadone  
3900 Niele Place  
Honolulu, Hawaii 96816

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 1, 2017 7:49 PM  
**To:** CPH Testimony  
**Cc:** chinheng@chinheng.com  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/1/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Chin Lee            | Individual          | Comments Only             | No                        |

Comments: Strongly oppose the requirement to report detailed operator information, including number of booking transactions. This is unfair to operator - will the hotel industry be under the same requirement to report number of booking transaction? Also strongly oppose the requirement to limit the number of short-term rental lodging units that can be registered by any one operator, and strongly oppose the requirement to set a cap of the number of nights permitted. Are we imposing the same restriction to hotel operators as well? Why are we imposing a stricter requirement to small business owner to protect the hotel lobbyist? Strongly oppose the surcharge on short term rental lodging - if the state needs to tax short term rental lodging, it will need to tax the hotel industry too. We can't create unfair business restriction for small business owner. Hawaii economy is fueled mostly by small business owner.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 5:51 AM  
**To:** CPH Testimony  
**Cc:** stoopse@gmail.com  
**Subject:** \*Submitted testimony for SB1202 on Feb 3, 2017 13:25PM\*

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

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

Comments:

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## OPPOSE SB1202

SB1202 is a bill that is wise in intent but is very unclear as to what the limits on number of units, and on number of nights, an operator would be held to. There is no rationale provided for such limits, nor is there a feasible way to monitor/enforce these limits.

The tax revenue shortage of roughly 125 million dollars in 2016 will hurt all aspects of spending. Short term rentals, via Airbnb alone, generated 25 million dollars from just the TAT and GET not to mention the actual state income tax from Airbnb transactions in 2016 (Gross would be 166 million, so 20% income tax on that would be 33 million dollars). This income generated in 2016 nearly 60 million in tax revenues. And this is just from rental fees. The money that guests spend at restaurants and other tourist venues brings in much more needed revenues and helps the economy and quality of life for all citizens of Hawaii. Tourism is the largest employer in the state. Please don't support bills that poorly regulate and limit this important part of our economy. Please oppose such an under-developed and unclear bill as SB1202.

Thomas Cummings.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 8:25 AM  
**To:** CPH Testimony  
**Cc:** kktarvyd@gmail.com  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Rosario Tarvyd      | Individual          | Oppose                    | No                        |

Comments: SB1202 is a bill that is wise in intent but is very unclear as to what the limits on number of units, and on number of nights, an operator would be held to. There is no rationale provided for such limits, nor is there a feasible way to monitor/enforce these limits. The tax revenue shortage of roughly 125 million dollars in 2016 will hurt all aspects of spending. Short term rentals, via Airbnb alone, generated 25 million dollars from just the TAT and GET not to mention the actual state income tax from Airbnb transactions in 2016 (Gross would be 166 million, so 20% income tax on that would be 33 million dollars). This income generated in 2016 nearly 60 million in tax revenues. And this is just from rental fees. The money that guests spend at restaurants and other tourist venues brings in much more needed revenues and helps the economy and quality of life for all citizens of Hawaii. Tourism is the largest employer in the state. Please don't support bills that poorly regulate and limit this important part of our economy.

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To: Senator Glenn Wakai, Chair  
Senator Brian T. Taniguchi, Vice Chair

Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair

My name is Gina AK LeTourneur  
I represent myself  
My number is 8087824867

The hearing day is Friday, Feb 3, 2017

Re Bill 1202. I oppose this bill

I am a native of Hawaii and I am not in favor of Bill 1202.

The reasons I am not supporting this bill is because I have been renting long term for over ten years and it has not been a good experience. I am a single mother for thirty years. I worked three jobs to get where I am at. I bought a home and rented long term for over 15 years. I have had to go to court over five times, each time the court ruled in my favor. From squatters, to home destruction, to tenants skipping out on rent and leaving my place in shambles. I have supported my two daughters and I have a disabled daughter and grandson that I support. I have switched to renting 30 days or more at a time and this has been a good experience. I pay my GE and TAT license on my own. The reason I DON'T SUPPORT 1202 is because I've worked hard for what I have accomplished and to be mandated by tax collectors, record keeping of booking and transactions sounds like a punishment for everything I have worked hard for. These are too extreme mandates for home owners. I oppose strongly of this bill.

Thank you for listening to my stand on NOT SUPPORTING BILL 1202.

Gina LeTourneur

Economic Development, Tourism and Technology (ETT) Committee  
Commerce, Consumer Protection Committee and Health (CPH) Committee  
OPPOSE  
SB1202  
Friday, February 3, 2017  
Pollyanna Fisher-Pool

Aloha Chairs,

I appreciate the opportunity to testify in opposition of SB1202. Alternative lodging is important to my family as we like the unique travel experience it offers when we travel within and outside of Hawaii. Also, we have an Ohana unit that, when not being used by our extensive family visiting we occasionally rent out short term. This allows me to be able to work part time as a scientific researcher and take care of our twin toddlers, while providing income that combined with my husband's salary, affords us to pay our mortgage.

The state has failed to issue any transient accommodation permits in over twenty years. Vacationers want to stay at local neighborhoods and under this bill; a land use change would be needed for each home that may want to offer occasional short term rentals.

Placement of caps on rental nights and extra surcharges are unnecessary. The income generated by the regular TAT should go towards the homeless fund and under SB 1087 the state should be able to automatically collect more revenue that can be diverted to this service. However, if a new tax to create a fund for the homeless is to be implemented, this should be applied across the board to all constituents and especially for the hotel and travel industry. The transient accommodation community is a drop in the bucket compared the hotel industry. The proposed roadblocks and surcharges would not only increase each family's taxes and cost of living, making it unfeasible to afford to living at their home. Yet it is also an impossible task for the state to do.

Globally, more individuals are seeking the comfort of home during travel and the opportunity of meeting locals in order to get the best neighborhood knowledge.

Alternative lodging is a growing industry worldwide and gaining popularity. Hawaii cannot place more burdens on those who seek to offer this service; this bill only puts our state behind the trend and we will miss out on the opportunity. Mahalo for your time,

Pollyanna Fisher-Pool

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 1, 2017 5:55 PM  
**To:** CPH Testimony  
**Cc:** bautista.aprilk@icloud.com  
**Subject:** \*Submitted testimony for SB1202 on Feb 3, 2017 13:25PM\*

**SB1202**

Submitted on: 2/1/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| April Bautista      | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 10:39 AM  
**To:** CPH Testimony  
**Cc:** frances1215@gmail.com  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Frances             | Individual          | Oppose                    | No                        |

Comments: I oppose this bill, it is poorly written and will have unintended consequences, and will cost so much to enforce it will cut into the revenues it will generate. I support bill SB 1087.

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Senate Economic Development, Tourism, and Technology Committee And  
Senate Commerce, Consumer Protection and Health Committee

OPPOSE - SB1281 RELATING TO TAXES

Testimony of Ada Eschen

Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:

I am testifying in opposition of SB1281.

I am the owner of a vacation rental condo in an approved vacation rental zone in Kihei, Maui. I have been collecting and paying taxes on the revenues I collect since I began renting in 2010. Collecting and paying taxes is just one of many business responsibilities I handle on a regular and ongoing basis. The Hawaii Department of Tax website is a wonderful tool and has made handling taxes very easy and simple.

I do not need or want my marketing platform or any third party to have another level of control on my business finances. Allowing a marketing platform or third party to collect and pay taxes that are a part of my responsibility will only open a door to more charges, controls, audits, legislation, mandates etc. Allowing a third party to collect and pay our taxes in order to solve the problem of some people not paying their taxes, only shifts the problem from one area to another and does nothing to resolve it. We already have a tax collector, its called HI DOTAX. If HI DOTAX and existing laws did what they were intended to do, none of these types of bills would be submitted for consideration.

Thank you for the opportunity to testify.

Ada Eschen  
adaeschen@yahoo.com

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 2:28 PM  
**To:** CPH Testimony  
**Cc:** leahlaramee@gmail.com  
**Subject:** \*Submitted testimony for SB1202 on Feb 3, 2017 13:25PM\*

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Leah Laramee        | Individual          | Oppose                    | No                        |

Comments:

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Senate Economic Development, Tourism, and Technology Committee  
Senate Commerce, Consumer Protection and Health Committee

Friday, February 3, 2017, 1:15 pm  
Room 414

**OPPOSE: SB1202, RELATING TO TAXES**

Aloha Chairs Sen. Wakai, Sen. Baker, members of the committees.

My name is Will Page, President of Page Marketing in Kailua and a member of OALA.

I was born and raised in Kailua. I live there now. It is quiet especially at night. The traffic is manageable. Parking is not a problem.

I cannot afford to retire because the cost of housing is so high, State taxes are out of sight and the City and County of Honolulu is anti-business in my neighborhood.

I can tell you that Kailua businesses support tourism.

Paying of taxes legitimizes the tourism industry. Accommodations are the heart of tourism. Once the State realizes the amount of taxes that can be collected, the City may be called upon to take action with regards to unpermitted bed and breakfast homes and vacation rentals.

SB1202 addresses this problem in a indirect and unpalatable manner. It basically requires the various Internet platforms to provide specific information to the State of Hawaii about the users of the platform and requires operators to keep records and limit the number of rentals that can be accommodated. It requires operators to restrict their rental activities with no promise of permitting by the City and County of Honolulu.

Worst of all, it equivocates tourism with homelessness. The more visitors there are, the more homelessness this is. Do you see this?

Tourism is not an economic engine for all of Hawaii. Tourism also causes homelessness -- particularly by the operators of vacation rentals and bed and breakfast homes.

So SB1202 requires real property owners who provide short-stay rentals to provide funding for homeless programs.

This is egregious. Tourism is the lifeblood of our economy here in the Islands. We are the envy of Island people across the Pacific because we have been so successful in supporting our island lifestyle with tourism.

Please oppose SB1202.

Mahalo,  
Will Page

Senate Economic Development, Tourism, and Technology Committee And

Senate Commerce, Consumer Protection and Health Committee

OPPOSE

for

SB1202 RELATING TO TAXES

Testimony of Millie Hyde

Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:

My name is Millie Hyde and I am testifying in OPPOSITION of Bill SB1202. Since there is a bill SB1087 already up for hearing that would require operators of short term rentals to collect and remit GET and TAT, this measure goes further and requires platforms and short-term rental owners or operators to provide written verification of county land use compliance as well as capping the number of units and creating a surcharge fund for the homeless.

The State of Hawaii has not required the counties to accept the short term rental industry statewide and/or find ways for it to legally exist and be verifiable and compliant. The additional requirements of this measure are absurd, there are never enough good responsible businesses in any market place and the market place will determine who stays in business and who doesn't. The intent of this measure should be to establish or require the counties of the State of Hawaii to enact good and proper regulation for the industry. In addition this measure creates a highly discriminatory surcharge for a problem that exists statewide and which is in no way attributable to the short term rental industry by any quantifiable data. The attaching of such a requirement shows a lack of understanding of the homeless problem and puts an additional burden on people in the industry who are already contributing with taxes and efforts to resolve the situations of unfortunate individuals in our community.

The financial plight of our state and counties should examine and find responsible revenue sources, provide fair regulation and explore tax income opportunities.

This measure as proposed is divisive and restrictive.

Thank you for the opportunity to testify.

Senate Economic Development, Tourism, and Technology Committee And

Senate Commerce, Consumer Protection and Health Committee

OPPOSE

for

SB1202 RELATING TO TAXES

Testimony of Norm Nichols

Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:

My Name is Norm Nichols and I am testifying in OPPOSITION of Bill SB1202. Since there is a bill SB1087 already up for hearing that would require operators of short term rentals to collect and remit GET and TAT, this measure goes further and requires platforms and short-term rental owners or operators to provide written verification of county land use compliance as well as capping the number of units and creating a surcharge fund for the homeless.

Since the State of Hawaii has not required the counties to accept the short term rental industry statewide and find ways for it to legally exist and be verifiable and compliant. The additional requirements of this measure are absurd, there is never enough good responsible businesses in any market place and the market place will determine who stays in business and who doesn't. The intent of this measure should be to establish or require the counties of Hawaii to enact good and proper regulation for the industry. In addition this measure creates a highly discriminatory surcharge for a problem that exists statewide and which is in no way attributable to the short term rental industry by any quantifiable data. The attaching of such a requirement shows a lack of understanding of the homeless problem and puts an additional burden on people in the industry who are already contributing with taxes and efforts to resolve the situations of unfortunate individuals in our community.

The financial plight of our state and counties should be examined and find responsible revenue sources, provide regulation and explore tax income opportunities, this measure is divisive and restrictive.

Thank you for the opportunity to testify.

**TO: Senate Economic Development, Tourism, and Technology Committee And  
Senate Commerce, Consumer Protection and Health Committee**

**RE: TESTIMONY in OPPOSITION TO SB1202, RELATING TO TAXATION**

HEARING:

| <b>Committee</b> | <b>Room</b> | <b>Date/Time</b>           |
|------------------|-------------|----------------------------|
| <b>ETT/CPH</b>   | <b>414</b>  | <b>Feb 3, 2017 1:25 PM</b> |

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

Aloha, Chairs Sen. Wakai, Sen. Baker and members of the committees:

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

I appreciate the opportunity to testify in opposition to SB1202 which allows platforms (such as Airbnb, VRBO, HomeAway) to collect and remit GET and TAT on behalf of short-term rental operators BUT ALSO PUTS THE BURDEN OF PROVING COMPLIANCE OF AN OUTDATED REGULATION ON WELL-MEANING CITIZENS.

As a tax-paying resident of the State for almost 30 years, I support efforts to EFFICIENTLY and EFFECTIVELY collect and process tax revenues for the State. HOWEVER, there is no sense in placing additional burdens on citizens to comply with outdated regulations put in place at a time when things were very, very different.

PLEASE DO NOT MAKE ANY MORE LAWS AND RULES THAT ARE BASED ON OUTDATED LAWS AND RULES. USE YOUR TIME TO MAKE THE BEST OF WHAT'S AVAILABLE IN THE PRESENT DAY, TIME AND MARKETPLACE.

In conclusion, the State needs revenue -- HOWEVER, I believe passage of this bill would UNNECESSARILY LIMIT THE STATE'S POTENTIAL REVENUE while at the same time BURDEN THE TAXPAYING CITIZEN.

Thank you for the opportunity to testify.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 3:14 PM  
**To:** CPH Testimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB1202 on Feb 3, 2017 13:25PM\*

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual          | Support                   | No                        |

Comments:

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# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Supporting SB 1202 Relating to Vacation Rentals  
Senate Committee on Economic Development, Tourism and Technology  
Senate Committee on Commerce, Consumer Protection and Health  
Scheduled for Hearing Friday, February 3, 2017, 1:25 PM Conference Room 414

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*Hawai'i Appleseed Center for Law and Economic Justice Hawai'i Appleseed is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.*

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Thank you Chairs Wakai and Baker and members of the committees for an opportunity to testify in strong support of SB 1281.

A recent report by the Department of Economic Development and Tourism determined Hawaii will need 65,000 more homes to house our residents by 2025. That estimation is similar to the projection by the Hawaii Housing Finance & Development Corporation's (HHFDC) that between 2015 and 2020 we have a housing shortage of 29,500 units. The Hawaii Tourism Authority estimates that there are over 27,000 vacation rentals in the state that are advertised online. The overwhelming number of these rentals are illegal. Every home that is used illegally as a visitor lodging business is one less home for our residents.

In tight housing markets with low vacancy rates, any reduction in supply naturally increases rents, particularly because neither the market nor the public sector can quickly add to the housing stock. On line vacation rentals indirectly reduces the affordable housing supply by reducing the overall housing supply of units available for long term rentals.

A recent report by the Hawaii Housing Finance and Development Corporation (HHFDC) indicated an alarming drop in rental listings over the last three years for both multi-family and single-family units on all islands. In some areas, advertised rental housing listings have dropped by 80%, with the number of single-family listings in Kaua'i at less than 10% of the number of listings available three years ago. Another recent study by the Honolulu County Office of Community Services indicated that at 80 % of occupancy, the average vacation rental unit in 2015 would bring in about 3.5 times more than for a long term rental to local residents. Now more than ever we need state and county cooperation to ensure any housing, whatever the number of units, stays as residential. We need to encourage landlords to rent to residents trying to find affordable housing rather than incentivize them to converted units to vacation rentals.

It is important to bring some order to the proliferation of illegal vacation rentals. SB 1281 does this by:

- Requiring operators to provide data to tax collection brokers showing that they are legal

*Hawaii Appleseed Center for Law and Economic  
Justice*

*February 2, 2017*

- Underlines the responsibilities of the broker to not allow operators who do not provide proof of compliance with the legal requirements
- Does not pre-empt county requirement and restrictions on vacation rentals.

These three central requirements are necessary to bring order and legality to the operation of vacation rentals by ensuring all operators and plan managers are able to verify compliance with county land use laws in the form of a written certification, verification, or permit issued by the appropriate county agency.

Thank you for an opportunity to testify in strong support for SB1202.

Aloha,  
Victor Geminiani  
Hawaii Appleseed center for Law and Economic Justice

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 2:58 PM  
**To:** CPH Testimony  
**Cc:** Cwatanabe@5.unitehere.org  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Eric Gill           | UNITE HERE Local 5  | Support                   | Yes                       |

Comments: Support with 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.

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**From:** [ETT Testimony](#)  
**To:** [CPH Testimony](#)  
**Subject:** FW: OPPOSE SB1202 RELATING TO TAXATION Testimony of Mark Steiner  
**Date:** Thursday, February 2, 2017 11:12:25 AM

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**From:** Mark Steiner [mailto:markshawaii@gmail.com]  
**Sent:** Thursday, February 2, 2017 8:51 AM  
**To:** ETT Testimony <ETTTestimony@capitol.hawaii.gov>  
**Subject:** OPPOSE SB1202 RELATING TO TAXATION Testimony of Mark Steiner

Senate Economic Development, Tourism, and Technology Committee And  
Senate Commerce, Consumer Protection and Health Committee

**OPPOSE**

**SB1202**

RELATING TO TAXATION

Testimony of Mark Steiner

- Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:
- My name is Mark Steiner and I appreciate the opportunity to testify in opposition to **SB1202**. For the past several years, after my divorce, I rent a guest room part time to help supplement my income. Even as a professional with a decent salary, the high cost of living in Hawai'i, particularly housing, is difficult, even for me. In addition, I am 67 years old, and have not yet retired, as I am not confident I can afford this, although I would be able to do on the mainland. In my 10 years here I have seen a continual movement toward making this beautiful place one that only the wealthy can afford. Notice the Teslas, Mercedes, Jaguars, and the new condos for \$1 – 4 million. The non-resident hotel conglomerates should not be the focus of my representatives. You should represent the majority (still) of the regular citizens, trying to enjoy life in these islands with kuleana for them.
- Oahu has discontinued issuing permits since 1989, denying me the opportunity to comply with these regulations.
- I am in favor of opening up the fair and responsible issuing of permits, and withdrawal where there is abuse. However, putting artificial caps on alternative accommodations is not fair or reasonable, and would reduce state revenues, as well as my own.
- My guests, are from around the world. Often, they would not be able to afford the full service hotels or would not stay for as long. They usually like to shop in America and

spend money that otherwise would be spent outside the state. Europeans have many weeks vacation annually and often visit more than one island.

- I pay all my TAT and GET, as well as income taxes and some of this revenue would not be available to the state if these guests could not afford to vacation here.
- 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.

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Aloha,

Mark

**From:** [ETT Testimony](#)  
**To:** [CPH Testimony](#)  
**Subject:** FW: OPPOSE 1202  
**Date:** Thursday, February 2, 2017 11:12:33 AM

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**From:** K S [mailto:kellysolutions@gmail.com]  
**Sent:** Wednesday, February 1, 2017 9:18 PM  
**To:** ETT Testimony <ETTTestimony@capitol.hawaii.gov>  
**Subject:** OPPOSE 1202

Committee on Economic Development, Tourism and Technology

And the Committee on Commerce, Consumer Protection and Health

OPPOSE

for

SB1202 RELATING TO TAXES

Testimony of Kelly Stern

Aloha Chairs Sen. Wakai, Sen. Baker and members of the committees:

My name is Kelly Stern and I am testifying to oppose of SB1202. I have lived on the big island and now in Honolulu working to improve mental health for children in public school system. In 2015 I lead the state in landing a grant for \$12.6M and won the Daniel K Inouye award for advancing the field of psychology. While my contribution to improvements for the mental health of children and families of this island have been my work for the last 27 years in Hawaii, I still have found that I need to work two jobs to make ends meet so that my children who had to move to the mainland can come back for visits or I can go visit them.

Recently I was able to make a purchase of a condo for my family to retreat to, and I use Airbnb in between times I want to bring in some revenue to fly my kids here from the mainland. It's the only way I can afford to bring them back so we can enjoy the beauty of Hawaii together.

I want a mechanism that does not criminalize or make it so difficult to follow laws that overwhelm that average taxpayer for the short term rentals. I want to pay taxes on what I receive from my guests, while still allowing me to have my condo for family gatherings.

Please oppose this bill so that those of us who struggle to work in our communities can make

some extra money to enjoy time with our children and promoting family time.

Thanks you for considering this request.

Respectfully

Kelly Stern

Sent from my iPhone

**From:** [Julie Mercer](#)  
**To:** [CPH Testimony](#)  
**Subject:** Testimony for SB1202  
**Date:** Thursday, February 2, 2017 3:07:17 PM

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Dear Chair Senator Baker and Vice Chair Nishihara:

I am not able to attend the hearing on Febuary 3. I submit the following:

I **Oppose** SB 1202, Relating to Taxation.

Thank you.  
Julie Mercer  
Manoa, Oahu

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 3:32 PM  
**To:** CPH Testimony  
**Cc:** mhubner@halehubner.com  
**Subject:** Submitted testimony for SB1202 on Feb 3, 2017 13:25PM

**SB1202**

Submitted on: 2/2/2017

Testimony for CPH/ETT on Feb 3, 2017 13:25PM in Conference Room 414

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

Comments: Dear Members of the Committee, I am writing to provide testimony in opposition of the revisions proposed in SB 1202. As an owner of a vacation rental on the island of Hawai'i, I fully support measures for the state to more-efficiently collect taxes. Allowing the vacation rental platforms to collect and remit taxes may be an appropriate measure; however, the proposed language in this Bill creates an ambiguous new definition of "short-term lodging" and has further ramifications of imposing 60 night limits on those forms of lodging (appearing to include vacation rentals). This would end many small businesses in my community, which provides lodging for many of the guests who visit Hawai'i Volcanoes National Park. Because of such hardships, I ask you to OPPOSE this Bill in its current form. Sincerely, Matt Hubner

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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