

Honolulu, Hawaii

APR 06 2018

RE: H.B. No. 2605  
H.D. 2  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 2605, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend various laws relating to transient accommodations.

Specifically, the measure:

- (1) Establishes a process by which the Director of Taxation may permit a transient accommodations broker to register to act as a tax collection agent with respect to transient accommodations taxes and general excise taxes for its operators and plan managers;
- (2) Provides that any violation of a county transient accommodations ordinance shall result in, at a minimum, a civil penalty of not less than \$25,000 to be levied by the county planning director;
- (3) Authorizes counties to require the disgorgement of certain profits obtained through unfair or unlawful business practices;



- (4) Authorizes counties to adopt ordinances prohibiting transient accommodations brokers from engaging in business with an operator or plan manager who is not in compliance with all state laws and county ordinances, including laws and ordinances regarding land use, taxes, and professional licenses;
- (5) Authorizes counties to adopt ordinances requiring an operator or plan manager to remove certain noncompliant advertisements within seven days of receiving a notice, a violation of which shall be subject to a civil fine of not less than \$25,000, to be levied by the county planning director of the county where the subject property is located;
- (6) Authorizes counties to adopt ordinances to amortize or phase out transient vacation rental units;
- (7) Provides that, upon the establishment by a county of a process for providing verification of compliance by an operator or plan manager with that county's land use ordinances, the State shall transfer, from the transient accommodations tax revenues, up to \$1,000,000 to each county for implementation or enforcement of those land use ordinances; and
- (8) Establishes a new chapter of the Hawaii Revised Statutes to regulate transient accommodations that, among other things:
  - (A) Prohibits a person who is acting as, or on behalf of, a transient accommodations broker from:
    - (i) Engaging in business with an operator or plan manager, including any person or entity employed, contracted, or otherwise engaged by the operator or plan manager, who is not in compliance with all state laws and county ordinances, including any laws and ordinances regarding land use, taxes, and professional licenses; or



- (ii) Employing, contracting, or otherwise engaging in business with any person or entity to manage any property of the operator or plan manager or to act as an activity provider for transients served by the operator or plan manager if the person or entity is not in compliance with all state laws and county ordinances, including any laws and ordinances regarding land use, taxes, and professional licenses; and
  
- (B) Prohibits a person acting as, or on behalf of, a hosting platform from providing, and collecting a fee for, booking services in connection with transient vacation rentals located in the State if those transient vacation rentals are not lawfully certified, registered, or permitted as a transient vacation rental under applicable county ordinance at the time the transient vacation rental is rented.

Your Committee received written comments in support of this measure from the Office of the Governor; Department of Taxation; Office of Hawaiian Affairs; Department of Planning and Permitting, City and County of Honolulu; Planning Department, County of Kauai; two members of the Maui County Council; American Hotel and Lodging Association; Hawaii Advocates For Consumer Rights; Hawaii Lodging and Tourism Association; Hilton Hawaii; Keep It Kailua; Kohala Coast Resort Association; Kupuna Caucus of the Democratic Party of Hawaii; Marriott Resorts Hawaii; Pacific Resource Partnership; and eight individuals.

Your Committee received written comments in opposition to this measure from Airbnb; Bridges to Paradise Rentals, Inc.; Coalition for Equal Taxation; Condominium Rentals Hawaii Expedia, Inc.; Hale Ono Loa Owners Association; Hawaii Vacation Rental Association; Kona Coast Vacations; Maui Nuts, LLC; Rental By Owner Awareness Association; Rocky Point Properties, LLC; Timberline Land Co. HI, LLC; and numerous individuals.

Your Committee received written comments on this measure from the Department of the Attorney General; Department of Budget and Finance; Hawaii Tourism Authority; Office of the Mayor, County of



Hawaii; Tax Foundation of Hawaii; UNITE HERE Local 5; and four individuals.

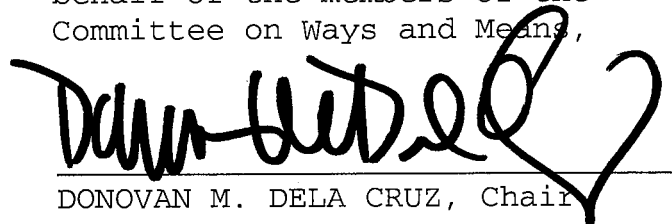
Your Committee finds that this measure establishes a workable framework to monitor the lawful provision of transient accommodations while ensuring the collection of taxes and the promotion of fair business practices.

Your Committee has amended this measure by:

- (1) Inserting a one-time tax amnesty program for certain eligible taxpayers with respect to transient accommodations tax and general excise tax liabilities;
- (2) Replacing a requirement that a transient accommodations broker place certain information in certain advertisements with a requirement that the broker notify the operator or plan manager that such information is required in those advertisements under law;
- (3) Changing the penalties in the new chapter of the Hawaii Revised Statutes from criminal penalties to civil penalties; and
- (4) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2605, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2605, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

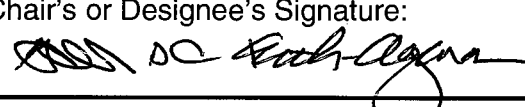


DONOVAN M. DELA CRUZ, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:
HB 2605 HDZSD1	ETT / PSM, WAM	4/3/18
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
DELA CRUZ, Donovan M. (C)	X	
KEITH-AGARAN, Gilbert S.C. (VC)	X	
ENGLISH, J. Kalani	X	
GALUTERIA, Brickwood	X	
HARIMOTO, Breene		X
INOUYE, Lorraine R.	X	
KAHELE, Kaiali'i	X	
KIDANI, Michelle N.		X
RIVIERE, Gil	X	
SHIMABUKURO, Maile S.L.	X	
WAKAI, Glenn	X	
<b>TOTAL</b>	9	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 		
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy		

\*Only one measure per Record of Votes