

Honolulu, Hawaii

FEB 14 2018

RE: S.B. No. 2615
S.D. 1

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

Sir:

Your Committees on Economic Development, Tourism, and Technology and Commerce, Consumer Protection, and Health, to which was referred S.B. No. 2615 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Rename "transient accommodations brokers" as "transient accommodations intermediaries" and include within the definition certain persons who market transient accommodations through wholesale travel companies and booking platforms, thereby making these entities subject to the transient accommodations tax; and
- (2) Clarify that the transient accommodations tax liability shall be apportioned between an operator and transient accommodations intermediary with respect to that person's respective portion of the gross proceeds.

Your Committees received testimony in support of this measure from Council Chair Mike White, of the County of Maui; Robert Carroll, Councilmember of the County of Maui; and one individual. Your Committees received testimony in opposition to this measure from the Travel Technology Association and Expedia, Inc. Your Committees received comments on this measure from the Department



of the Attorney General, Department of Taxation, and Tax Foundation of Hawaii.

Your Committees find that when the transient accommodations tax law was established, the law did not contemplate or account for the advancements in technology that currently present novel markets and means of engaging in the business of furnishing transient accommodations. Although the availability of transient accommodations has greatly benefitted many, it has also created a disparity in the tax treatment of certain entities involved in the furnishing of transient accommodations and has resulted in the State not collecting the full amount of taxes, like the transient accommodations tax, from certain parties.

Your Committees further find that it is an appropriate time to create parity between commissioned and noncommissioned transactions by imposing the transient accommodations tax on every party's share of proceeds received when transient accommodations are booked through an intermediary.

Your Committees received testimony indicating that this measure, as drafted, will impose the transient accommodations tax twice for commissioned transactions, once on the operator and a second time on the intermediary.

Therefore, your Committees have amended this measure, as suggested by the Department of Taxation, by:

- (1) Imposing the transient accommodations tax on intermediaries who arrange or book transient accommodations at noncommissioned negotiated contract rates;
- (2) Clarifying that other fees unrelated to transient accommodations are exempt from the definition of "gross rental" or "gross rental proceeds";
- (3) Exempting from the definition of "gross rental" or "gross rental proceeds" the amount of transient accommodations taxes that are visibly passed on to the customer by an intermediary;



- (4) Requiring only noncommissioned negotiated contract rates to obtain a certificate of registration and requiring the intermediaries to pay a one-time fee of \$15;
- (5) Including travel agencies within the definition of transient accommodations intermediary and making conforming amendments;
- (6) Making this measure applicable to taxable years beginning after December 31, 2018, to allow for sufficient time to make the necessary form and computer system changes; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Economic Development, Tourism, and Technology and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2615, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2615, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Economic
Development, Tourism, and
Technology and Commerce,
Consumer Protection, and
Health,



ROSALYN H. BAKER, Chair



GLENN WAKAI, Chair



