



Maui Hotel & Lodging
ASSOCIATION



Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB 2432 PROPOSED SD1
Relating To The Transient Accommodation Tax

COMMITTEE ON WAYS AND MEANS
Thursday, April 5, 2018, 10:15 am
Conference Room 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 185 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA’s membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **opposed** to **SB 2432 Proposed SD1**, which imposes the transient accommodations tax on resort fees that are calculated separately from the advertised transient accommodation's rate. Clarifies that the transient accommodations tax shall be calculated based on the gross rental. Amends the formula for the amount of transient accommodations tax to be collected from time shares by increasing the base on which time share occupancy is taxed from one-half of the gross daily maintenance fees paid by the owner and are attributable to the time share unit to an unspecified per cent. Specifies that the transient accommodations tax is to be collected from transient accommodations intermediaries who arrange transient accommodations at noncommissioned negotiated contract rates in the same manner as transient accommodation operators. Applies to taxable years beginning after 12/31/2018

MHLA is concerned with two sections of this Bill:

- 1) By changing the language in 237D-1 to add “resort fees” to “gross rental proceeds” is not appropriate as resort fees are for services or products provided to the guest sometimes through a third part vendor. While the proposed SD1 does provide some limitations for transportation and excursions we would like to request that additional fees not related to accommodations be added such as: water activity gear (e.g. snorkeling equipment, stand-up paddle boards); parking. The resort fee typically includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used.
- 2) Proposed language amending the formula for TAT to be collected from Timeshares will unfairly impact a very specific portion of Hawaii property owners who choose to visit our state on an annual basis and contribute to Hawaii’s economy. Timeshare units when not used by their owners and rented on a transient basis by non-owners or used for marketing purposes by developers are already subject to the

exact same TAT rates as hotel units. Timeshare owners are Hawaii property owners who have made a long-term commitment to Hawaii by owning Hawaii real estate. They and their guests are dependable, consistent, and stable visitors who bring substantial tax dollars to Hawaii and continue to come even during economic downturns. They pay a yearly maintenance fee including real property taxes, GET and other fees. No other owner of real property in Hawaii is required to pay an occupancy tax to stay in real property that they already own.

Thank you for the opportunity to testify.

The following is a list of hotels and timeshares (members) represented by Maui Hotel & Lodging Association:

Andaz Maui

Aston at the Whaler on Kā'anapali Beach

Aston Kā'anapali Shores

Aston Mahana at Kā'anapali

Best Western Pioneer Inn

Destination Maui Vacation Rentals

Destination Residences Hawai'i

Fairmont Kea Lani, Maui

Four Seasons Resort Lāna'i

The Lodge at Koele, a Four Season Resort

Four Seasons Resort Maui at Wailea

Grand Wailea Resort

Hana Kai Maui Resort

Honua Kai Resort & Spa

Hotel Molokai

Hotel Wailea Maui

Hyatt Regency Maui Resort & Spa

Hyatt Residence Club, Kā'anapali Beach

Kā'anapali Beach Club

Kā'anapali Beach Hotel

Kahana Falls

Lāhaina Shores, Classic Resorts

Mana Kai Maui

Marriott's Maui Ocean Club

Maui Beach Hotel

Maui Coast Hotel

Maui Condo & Home, LLC

Maui Eldorado Kā'anapali by Outrigger

Mauian Hotel, The

Montage Kapalua Bay

Napili Kai Beach Resort

Napili Shores Resort by Outrigger

Plantation Inn

Residence Inn Maui Wailea

Ritz-Carlton Kapalua

Royal Lāhaina Resort

Sheraton Maui Resort & Spa

Travaasa Hana

Wailea Beach Marriott Resort & Spa

Wailea Point

Westin Kā'anapali Ocean Resort Villas

Westin Maui Resort & Spa

Westin Nanea Ocean Villas

Maui Beach Ocean View Rentals, LLC



HAWAI'I LODGING & TOURISM
ASSOCIATION

LATE

Testimony of

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

before the
Committee on Ways and Means

April 5, 2018

House Bill 2432 SD1 Proposed: Relating to the Transient Accommodations Tax

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

On behalf of the Hawai'i Lodging & Tourism Association, the state's largest private-sector visitor industry organization with nearly 700 members, thank you for the opportunity to testify on House Bill 2432 SD1 Proposed, which seeks to apply the transient accommodations tax to hotel resort fees; amends the formula in which the TAT is collected from timeshares; and specifies that the transient accommodations tax is to be collected from transient accommodations intermediaries who arrange transient accommodations at noncommissioned negotiated contract rates in the same manner as transient accommodations operators.

The HLTA opposes two provisions in this measure: The imposition of the TAT on hotel resort fees, and the increase to the formula in which the TAT is collected from timeshares.

We particularly oppose the resort fee provision, for these reasons:

- The TAT is not applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wifi, shuttle services, and so forth. However, the hotels do collect and remit to the state the general excise tax on these resort fees.
- Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past.
- Hotels have been transparent about these resort fees. They are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in.
- As an industry, we opposed a similar proposal in 2013 and again in 2014. Since then, our industry has continued to experience increased costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher taxes.

- The visitor industry, and Hawai‘i’s economy as a whole, have enjoyed six consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry has to finance the City and County of Honolulu’s rail project and is being asked to fund public education. This common practice of the hospitality industry footing the bill for new mandates and to balance the budget with the only overarching justification given that the State needs the money is a dangerous pattern with no end in sight. Last session it was a new increase to the TAT, this year it’s the TAT on resort fees, what will it be next year?
- Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that provision died and we have since been on the watch for ever more increases. In fiscal year 2013, the general fund allocation from the TAT was 41.9%, five years later it ballooned to 52.3% and in fiscal year 2018 it grew to 60.4%.

The visitor industry is the economic driver for our economy. It generates more than 204,000 jobs, and raises \$545 million through the TAT alone, a tax that was just raised at the beginning of the year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry is a fragile and highly competitive industry and we are one of the highest taxed leisure and resort destinations in the country. Adding additional taxes on an already expensive destination only puts us at a disadvantage in the local and global markets.

Rather than continuing to balance the budget on the backs of the hospitality industry, if both legislative chambers came together with the Governor’s concurrence, resolving the tax collection issue with transient vacation rentals would generate the additional revenue you seek.

For these reasons, we oppose this measure.

Mahalo for the opportunity to offer this testimony.

Sincerely,



Mufi Hannemann
President & CEO



Gregg Nelson
Chairman of the Board



Glenn Vergara
Chairperson Elect



Michael Jokovich
Vice Chairperson



Bonnie Kiyabu
Oahu Chapter Chairperson



Angela Nolan
Maui Chapter Chairperson



Steve Yannarell
Hawai‘i Island Chapter Chairperson



Jim Braman
Kaua‘i Chapter Chairperson

Harris Chan, Area Vice President, Hawaii & French Polynesia, Marriott International
Michael Czarcinski, General Manager, The Westin Moana Surfrider
Fredrick Orr, General Manager, The Sheraton Princess Kaiulani
Tetsuji Yamazaki, General Manager, The Sheraton Maui
Tomo Kuriyama, Deputy General Manager, The Sheraton Waikiki
Rob Robinson, Managing Director, Alohilani Resort
Matthew Grauso, General Manager, Alohilani Resort
Roy Yamamoto, General Manager, Ambassador Hotel
Kurt Kishaba, General Manager, Pearl Hotel Waikiki
Jim Paulon, General Manager Courtyard Marriott Waikiki
Kelly Hoen, Area General Manager, Outrigger Reef Waikiki Beach Resort & Outrigger Waikiki Beach Resort
Revell K. Newton, General Manager, Outrigger Waikiki Beach Resort
Chryssaldo Thomas, Resort Manager, Outrigger Waikiki Beach Resort
Simeon Miranda, General Manager, Embassy Suites by Hilton Waikiki Beach Walk
Dan King, General Manager, Grand Hyatt Kaua'i Resort & Spa
Doug Sears, General Manager, Hyatt Regency Waikiki Beach Resort & Spa
Robin Graf, Vice President of Operations, Castle Resorts & Hotels
Matthew Bailey, President & COO, Aqua-Aston Hospitality
Jeff Caminos, VP Operations, Aqua-Aston Hospitality
Susan Cowan, VP Operations, Aqua-Aston Hospitality
Patrick Kozuma, General Manager, Aston Waikiki Beach Tower
Kaniela Neves, General Manager, Aston at the Waikiki Banyan
Chip Crosby, General Manager, Aston Waikiki Circle
Terry Dowsett, General Manager, Aston at the Executive Center Hotel
Doug Okada, General Manager, Aston Waikiki Sunset
Tim Clark, General Manager, Aqua Aloha Surf Waikiki
Lendy Ma, General Manager, Aqua Ewa Beach Hotel & Aqua White Sands Hotel
Wes Kawakami, General Manager, Ilikai Hotel
Wade Gesteuyala, General Manager, Hampton Inn & Suites by Hilton
Clem Lagundimao, General Manager, Luana Waikiki Hotel & Suites
Ward Almeida, General Manager, Lotus Honolulu at Diamond Head
Alberto Roque, Area General Manager, Pagoda Hotel
Patty Maher, General Manager, Aqua Palma Waikiki
Miho Kamanao-Espiritu, General Manager, Aqua Park Shore Waikiki
Brian Kovaloff, General Manager, Aqua Skyline at Island Colony
Lynette Eastman, General Manager, The Surfjack Hotel & Swim Club
Mark Mrantz, General Manager, Aston Kaanapali Shores
Brian Cox, General Manager, Aston Mahana at Kaanapali
Steven Berger, General Manager, Aston at the Maui Banyan
Greg Peros, General Manager, Aqua Maui Beach Hotel
Dawn Kane, VP, Principal Broker, Maui Condo & Home
Dennis Costa, General Manager, Aston Maui Hill
Lyn Molina, General Manager, Aston at Papakea & Aston Paki Maui
Grant James, General Manager, Aqua Kauai Beach Resort
Lori Morita, General Manager, Aston Islander on the Beach
Kyoko Kimura, Sr. Director Owner Relations, Aqua-Aston Hospitality
Michael Wilding, General Manager, Doubletree by Hilton Alana – Waikiki Beach

The Following is a list of hotels represented by the Hawaii Lodging & Tourism Association:

Aqua-Aston Hospitality, LLC	Aston at the Executive Centre Hotel
Castle Resorts & Hotels	Aston at the Maui Banyan
Colony Capital, LLC	Aston at the Waikiki Banyan
Halekulani Corporation	Aston at The Whaler on Kaanapali Beach
Hawaiian Hotels & Resorts, LLC	Aston Islander on the Beach
Highgate Hotels	Aston Kaanapali Shores
Hilton Grand Vacations	Aston Kona by the Sea
InterContinental Hotels Group	Aston Mahana at Kaanapali
Ko Olina Resort	Aston Maui Hill
Kyo-ya Company LLC	Aston Maui Kaanapali Villas
Kyo-ya Management Company, Ltd.	Aston Shores at Waikoloa
Lucky Hotels U.S.A. Co., Ltd.	Aston Waikiki Beach Hotel
Marriott International, Inc.	Aston Waikiki Beach Tower
Outrigger Enterprises Group	Aston Waikiki Beachside Hotel
Prince Resorts Hawaii, Inc.	Aston Waikiki Circle Hotel
Pulama Lana`i	Aston Waikiki Sunset
Sasada International, LLC	Aston Waikoloa Colony Villas
Aina Nalu Lahaina by Outrigger	Aulani, a Disney Resort & Spa
Airport Honolulu Hotel	Best Western Pioneer Inn
Ala Moana Hotel	Best Western The Plaza Hotel
Alohilani Resort Waikiki Beach	Breakers Hotel
Ambassador Hotel Waikiki	Coconut Waikiki Hotel
Andaz Maui at Wailea Resort	Courtyard by Marriott Kaua'i at Coconut Beach
Aqua Aloha Surf Waikiki	Courtyard by Marriott King Kamehameha's Kona Beach
Aqua Bamboo & Spa	Courtyard by Marriott Waikiki Beach
Aqua Kauai Beach Resort	Courtyard Oahu North Shore
Aqua Oasis	Doubletree by Hilton Alana Waikiki Hotel
Aqua Pacific Monarch	Embassy Suites by Hilton Oahu Kapolei
Aqua Palms Waikiki	Embassy Suites by Hilton Waikiki Beach Walk
Aqua Park Shore Waikiki	Ewa Hotel Waikiki - A Lite Hotel
Aqua Skyline at Island Colony	Fairmont Orchid Hawaii
Aqua White Sands Hotel	Four Seasons Resort Lana`i
Aston at Papakea Resort	Four Seasons Resort Maui
Aston at Poipu Kai	Four Seasons Resort O'ahu at Ko Olina

Grand Hyatt Kauai Resort & Spa
Grand Nanihoa Hotel
Grand Wailea
Hale Koa Hotel
Halekulani
Hampton Inn & Suites, Kapolei
Hapuna Beach Prince Hotel
Hilton Garden Inn Kauai Wailua Bay
Hilton Garden Inn Waikiki Beach
Hilton Grand Vacations at Waikoloa Beach Resort
Hilton Grand Vacations Club
Hilton Hawaiian Village Waikiki Beach Resort
Hilton Waikiki Beach
Hilton Waikoloa Village Resort & Spa
Hokulani Waikiki by Hilton Grand Vacations Club
Holiday Inn Express Waikiki
Holiday Inn Waikiki Beachcomber Resort
Honua Kai Resort & Spa
Hotel Coral Reef Resort
Hotel Renew by Aston
Hotel Wailea Maui
Hyatt Centric Waikiki Beach
Hyatt Place Waikiki Beach
Hyatt Regency Maui Resort & Spa
Hyatt Regency Waikiki Beach Resort & Spa
Ilikai Hotel and Luxury Suites
Ilima Hotel
Ka`anapali Beach Club
Ka`anapali Beach Hotel
Kahana Falls
Kauai Marriott Resort & Beach Club
Kiahuna Plantation Resort by Castle Resorts
Ko`a Kea Hotel & Resort
Kona Coast Resort
Lawai Beach Resort
Lotus Honolulu at Diamond Head
Luana Waikiki Hotel and Suites
Marriott's Kauai Lagoons, Kalanipu'u
Marriott's Ko Olina Beach Club
Marriott's Maui Ocean Club
Marriott's Waiohai Beach Club
Maui Beach Hotel
Maui Coast Hotel
Maui Condo & Home, LLC
Maui Eldorado Kaanapali by Outrigger
Mauna Kea Resort
Mauna Lani Resort
Mauna Loa Village IOA
Moana Surfrider, A Westin Resort & Spa
Montage Kapalua Bay
Napili Kai Beach Resort
OHANA Waikiki East by Outrigger
OHANA Waikiki Malia
Ohia Waikiki Hotel
Outrigger Kiahuna Plantation
Outrigger Napili Shores
Outrigger Palms at Wailea
Outrigger Reef Waikiki Beach Resort
Outrigger Regency on Beachwalk
Outrigger Royal Sea Cliff
Outrigger Waikiki Beach Resort
Pacific Marina Inn
Pagoda Hotel
Pearl Hotel Waikiki
Plantation Hale Suites
Prince Waikiki
Queen Kapiolani
Raintree - Kona Reef Raintree Vacation Club
Ramada Plaza Waikiki
Royal Grove Hotel
Royal Kahana Maui by Outrigger
Royal Kona Resort
Royal Lahaina Resort
Sheraton Kauai Resort
Sheraton Kona Resort & Spa at Keauhou Bay
Sheraton Maui Resort and Spa
Sheraton Princess Kaiulani
Sheraton Waikiki Resort

Shoreline Hotel Waikiki
St. Regis Princeville Resort
Stay Hotel Waikiki
The Cliffs at Princeville
The Club at Kukui`ula
The Fairmont Kea Lani, Maui
The Imperial Hawaii Resort At Waikiki
The Kahala Hotel & Resort
The Laylow, Autograph Collection
The MODERN Honolulu
The New Otani Kaimana Beach Hotel
The Point at Poipu, Diamond Resorts International
The Ritz-Carlton Residences, Waikiki Beach
The Ritz-Carlton, Kapalua
The Royal Hawaiian, A Luxury Collection Resort
The Surfjack Hotel & Swim Club
The Westin Maui Resort & Spa
The Westin Princeville Ocean Resort Villas
Travaasa Hana
Trump International Hotel Waikiki
Turtle Bay Resort
Vive Hotel Waikiki
Waikiki Beach Marriott Resort & Spa
Waikiki Grand Hotel
Waikiki Parc Hotel
Waikiki Resort Hotel
Waikiki Sand Villa Hotel
Waikiki Shore
Waikoloa Beach Marriott Resort & Spa
Wailea Beach Marriott Resort & Spa
Waipouli Beach Resort & Spa by Outrigger
Westin Ka'anapali Ocean Resort Villas
Wyndham at Waikiki Beach Walk
Wyndham Vacation Resorts Royal Garden at Waikiki



April 5, 2018

LATE

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Testimony in Opposition to HB 2432, Proposed SD1, Relating to the Transient Accommodations Tax (Imposes the transient accommodations tax on additional hotel resort fees that are calculated separately from the advertised transient accommodation's rate.)

WAM Hearing: Thursday, April 5, 2018, 10:15 a.m., in Conf Rm 211

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide comments in **opposition to HB 2432, Proposed SD1.**

HB 2432, Proposed SD1. The purpose of this measure is to specify that resort fees, which are any mandatory charges or surcharges imposed for the use of a transient accommodation's property, services, or amenities, are included in the gross rental proceeds amount upon which transient accommodations tax (TAT) is calculated.

LURF's Position. The law imposes the TAT on "*transient accommodations*," and the TAT should not be expanded by this measure to apply to fees for the costs of optional guest amenities, products, goods and services, because those fees for optional costs are not part of a *transient accommodation*, or guest room. LURF's position is based on, among other things, the following:

- The TAT should only be imposed on "*transient accommodations*." Pursuant to Chapter 237D, Hawaii Revised Statutes ("HRS"), the TAT is imposed on "*transient accommodations*," which are defined as, "the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than one

hundred eighty consecutive days for each letting in a hotel, apartment hotel, motel, condominium or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients.”

Further confirmation that the TAT is applicable to “*transient accommodations*” and not optional amenities and services, is the fact that the TAT exemptions identified in §237D-3, HRS, refer to health care facilities, school dormitories, lodging, living accommodations, low-income rentals shorter than sixty days, transient accommodations for full-time students, and other complimentary accommodations furnished without charge.

- **The TAT does not apply to amounts paid for the costs of optional hotel guest amenities, products, goods and services.** Pursuant to Chapter 237D, HRS, the TAT does not apply to amounts paid for optional goods and services, including food and beverage services, or beach chair or umbrella rentals, etc., which are excluded from the TAT.
- **The TAT should not apply to the costs of optional hotel guest amenities, products, goods and services, such as the use of gym and spa facilities, wifi, shuttle services, etc., which are bundled together as a “resort fee.”** These options would cost more individually if they were not grouped, or bundled together, and hotel surveys have revealed that guests prefer a bundled, all-inclusive “resort fee” for such options, rather than being charged for each amenity, products, goods and services used, as was the practice in the past. Thus, many hotels and lodging properties have decided to recover some of the costs of such optional guest amenities, products, goods and services through what is sometimes defined in the industry as a “*resort fee*.” LURF understands that hotels in Hawaii have been transparent about the “*resort fee*” charges for the costs of optional guest amenities, goods and services. They are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in.

In view of the above discussion, LURF must **oppose HB 2432, Proposed SD1**, and respectfully requests that this bill be **held** in this Committee.

Thank you for the opportunity to provide comments relating to this measure.