



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

Testimony of **Ford Fuchigami**  
Administrative Director, Office of the Governor

Before the  
**House Committee on Finance**  
February 28, 2018  
1:00 p.m., Conference Room 308

In consideration of  
**House Bill No. 2605**  
**RELATING TO TRANSIENT ACCOMMODATIONS**

Chair Luke, Vice Chair Cullen, and committee members:

Thank you for the opportunity to provide comments in supporting the intent of **House Bill 2605, HD1**.

HB2605 HD1 will provide necessary funding to the counties to support the enforcement of transient accommodations laws and short-term vacation rental ordinances.

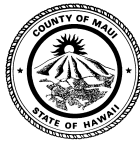
Thank you for the opportunity to submit testimony.

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 27, 2018

TO: Honorable Sylvia Luke, Chair  
House Committee on Finance

FROM: Mike White  
Council Chair

A handwritten signature in black ink, appearing to read "Mike White", is written over the printed name and title.

SUBJECT: **HEARING OF FEBRUARY 28, 2018; TESTIMONY IN SUPPORT OF HB 2605 HD1, RELATING TO TRANSIENT ACCOMODATIONS**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this bill is to allow counties to be eligible to receive \$1 million from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

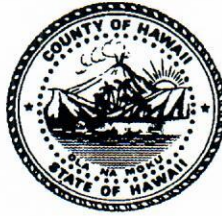
I **support** this measure for the following reasons:

1. Illegal transient vacation rentals remain a problem for both the counties and the State. It is estimated that thousands of illegal units are operating throughout the State, with over \$100 million in general excise tax and transient accommodations tax going uncollected.
2. Regulation will only be successful if funding assistance is provided by the State to the counties, along with sufficient information on operators being shared with the counties for enforcement purposes.
3. Maui County has already made revisions to the Maui County Code in attempts to enhance enforcement. A request for proposal was also recently issued to explore more sophisticated short-term rental enforcement options. However, only through collaboration will this issue be resolved.

For the foregoing reasons, I **support** this measure.

**Eileen O'Hara**  
Council Member  
Council District 4

**Chair:** Environmental  
Management Committee



**Phone:** (808) 965-2712  
**Fax:** (808) 961-8912  
**Email:** eileen.ohara@hawaiiicounty.gov

**Vice Chair:** Planning Committee and  
Agriculture, Water & Energy  
Sustainability Committee

**County of Hawaii**  
**Hawaii County Council**

25 Aupuni Street, Suite 1402 • Hilo, Hawai'i 96720

Representative Sylvia Luke  
Chair, House Committee on Tourism  
Hawai'i State House of Representatives

February 26, 2018

**Re: In Support of House Bill 2605, from Hawai'i County Council District 4**  
**To be heard by FIN on Wednesday, 02-28-18 1:00 PM in House conference room 308**

Aloha Chair Luke and Committee Members:

I'm writing to express my support for House Bill 2605, which provides that a County shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a County until it has satisfactorily complied with specified conditions.

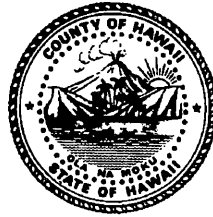
In Hawai'i County, we are about to entertain legislation that would effectively meet the condition outlined in this bill, although this may be done by establishing a registry that require annual renewal instead of issuing a special use permit. Please be aware that the term 'special use permit' is defined differently in each County's code, so I recommend using the language 'approvals' as the process currently under consideration for expediently issuing approvals will be an annual registry.

Please contact me if you have any questions about my support or knowledge of the subject.

Sincerely,

Eileen O'Hara  
Council Member  
Council District 4

**VALERIE T. POINDEXTER**  
Council Chairwoman & Presiding Officer  
Council District 1



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## HAWAI'I COUNTY COUNCIL

County of Hawai'i  
Hawai'i County Building  
25 Aupuni Street, Suite 1402  
Hilo, Hawai'i 96720

February 27, 2018

House Committee on Finance  
Sylvia Luke, Chair  
Ty J.K. Cullen, Vice Chair

Email: [repluke@Capitol.hawaii.gov](mailto:repluke@Capitol.hawaii.gov)  
Email: [repcullen@Capitol.hawaii.gov](mailto:repcullen@Capitol.hawaii.gov)

Subject: Testimony Supporting HB2605 HD1, Relating to Transient Accommodations  
Hearing: February 28, 2018, 1:00 P.M., Room 308

Dear Representatives:

On behalf of myself and the constituents of Council District 1 in Hāmākua, County of Hawai'i, I would like to express our support of HB2605 HD1, and submit a brief testimony as follows:

This bill provides that a county shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. It takes an appropriation from TAT revenues and requires a report from a county receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances.

I strongly support and urge the enactment of HB2605 HD1. Thank you for your time and consideration.

Sincerely,

Valerie T. Poindexter  
Hawai'i County Council Chairwoman  
District 1, Hāmākua

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, County Vacation Rental Enforcement

BILL NUMBER: HB 2605, HD-1

INTRODUCED BY: House Committee on Tourism

EXECUTIVE SUMMARY: Provides that a county shall be eligible to receive \$1,000,000 from general revenues for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations and short-term vacation rentals, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions.

SYNOPSIS: Adds an uncodified section to provide that a county may receive \$1 million to enforce laws and ordinances relating to transient accommodations, if it has:

- (1) Established a real property tax rate that applies only to:
  - (A) Transient accommodations; or
  - (B) Short-term vacation rentals occupied for a period of thirty consecutive days or less;
- (2) Developed a process to expediently issue special use permits to, and collect all applicable taxes from, qualifying properties that are proposed for use as:
  - (A) Transient accommodations; or
  - (B) Short-term vacation rentals occupied for a period of 180 consecutive days or less;
- (3) Established a registry to track compliance by, and any complaints concerning, permittees who receive special use permits pursuant to paragraph (2);
- (4) Established an expedited process for addressing alleged violations of zoning and special use permits laws and ordinances by operators of:
  - (A) Transient accommodations; or
  - (B) Short-term vacation rentals occupied for a period of 180 consecutive days or less;
- (5) Established an expedited process for addressing an appeal filed by a party that was denied a special use permit pursuant to paragraph (2); provided that a county that has not established an expedited process by December 31, 2018, shall establish a process that is functionally equivalent to the contested case hearing process described in section 91-9, HRS;
- (6) Enacted legislation that implements the conditions described in paragraphs (1) through (5); and
- (7) Notified the governor in writing that it has complied with the conditions described in paragraphs (1) through (6).

Requires counties receiving an appropriation under the act to submit a report to the legislature on what it did with the money.

EFFECTIVE DATE: July 1, 2018.

STAFF COMMENTS: Apparently, the Legislature wants the counties to focus on being proactive in enforcing its zoning and land use laws as they relate to vacation rentals.

The remedy proposed in this measure is to hold out a large carrot. If a county gets its proverbial act together and complies with the conditions in this measure, it gets a \$1 million one-time payout. Not bad for something the counties should have done anyway if they were serious about enforcing their zoning and land use laws.

Digested 2/26/2018

Testimony of  
Christopher Delaunay, Government Relations Manager  
Pacific Resource Partnership

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Wednesday, February 28, 2018  
1:00 P.M.  
State Capitol – Room 308

HB 2605, HD1 - Relating to Transient Accommodations

Aloha Chair Luke, Vice Chair Cullen and members of the Committee:

Pacific Resource Partnership (PRP) supports the intent of HB 2605, HD1 which will assist counties in enforcing transient accommodations and short-term vacation rental ordinances. This proposed measure provides that a county shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions.

Thousands of illegal rentals exist statewide and continue to pop up in residential neighborhoods. These rentals bring illegal and unregulated commercial activity into our neighborhoods, which are zoned residential, and may negatively impact Hawaii's affordable housing inventory.

For the reasons mentioned above, we respectfully request your support on SB 2605, HD1.

Thank you for the opportunity to voice our opinion.

#### About PRP

*Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.*



**HB-2605-HD-1**

Submitted on: 2/27/2018 12:16:16 AM

Testimony for FIN on 2/28/2018 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Larry Bartley	Save O'ahu's Neighborhoods	Oppose	Yes

Comments:

Allow me to introduce SONHawaii--for Save O'ahu's Neighborhoods--an O'ahu-wide volunteer organization dedicated to preserving and enhancing the residential character of O'ahu's neighborhoods. Our thrust is to halt and roll back the intrusion of short-term rentals in residential areas. SONHawaii is attracting active members from Waikiki to Windward to Makaha, united by their frustration with this devastating problem.

Founded in mid-2005, SONHawaii has been instrumental in educating the public and leaders on the negative impacts of destabilizing our neighborhoods with a constant flow of visitors. We have also gathered the support of Neighborhood Boards and community groups across O'ahu. From dozens of public meetings, we have determined that public opinion is staunchly in favor of stopping the spread of, and enforcing against, short-term rentals in residential neighborhoods. This industry's only supporters are those in the money chain.

HB2605 is a step in the wrong direction - offering county governments a million dollars to sacrifice their residential neighborhoods to hotel operations.

The public, once unaware of the devastation to neighborhoods and housing costs/availability, is now overwhelmingly in favor of shutting down this illegal industry through effective enforcement, not more permitting. Permitting has not proven to be an effective tool in enforcement, quite the opposite.

Those already breaking the county land use laws will continue to do so if the new permitting scheme does not suit their plans - they have shown their colors loud and clear for many years now.

Please support the new Senate version of SB2963 SD1 as it relates to enforcement while striking the sections that allow the Internet facilitators to become official agents of our state government.

Larry Bartley, Executive Director Save O'ahu's Neighborhoods



# Coalition for Equal Taxation

HB2605 H.D.1 --- **OPPOSE**

Finance Committee

2/28/18

Chair Luke, Vice Chair Cullen and Members of the Finance Committee:

The Coalition for Equal Taxation supports the State's authority to impose taxation. We also support the Counties' authority to impose zoning requirements, however, we respectfully **OPPOSES HB2605 H.D.1** in its present form.

1. Establishing a real property tax rate that applies only to transient accommodations or short term rentals.

What is the purpose of a tax rate that applies only to transient accommodations and short term rentals. For decades the counties have established categories that are unique to their jurisdiction and they also set their own tax rates. Who would set the new tax rate? If it is up to each county, they have already done so.

For example in Maui a TA/STR dwelling owner who cannot claim a homeowner's exemption would be under the category of residential or apartment. A Hawaii resident owner occupied (B&B) would be commercialized residential. On Kauai a dwelling without a homeowner's exemption who rents TA would be vacation rental. A owner occupied (B&B) would be commercialized home use. CC of Honolulu dwelling without homeowner's exemption is residential-A. Each of these property tax categories have rates established by that county. What would be the necessity of "establishing a real property tax rate" when the counties have already done this?

Each of the above counties long ago established zones that allow transient accommodations and non-conforming use permits.

The County of Hawaii has not yet adopted regulations relative to TA/STR. However, they have a proposed Bill for such registration and permitting. This Bill has not had the benefit of public hearings yet. Upon reading the Bill there are a number of inconsistencies that hopefully will be resolved in the vetting process. It should also be noted that County of Hawaii has some of the highest property tax rates. For example, a non-owner occupied Apartment Category (condo) is taxed at \$11.70. By way of comparison the Hotel and Resort category is taxed at \$11.55. Many people would question why a condo merits a higher tax rate than a hotel. Additionally, Hawaii's proposed TA/STR Bill also completely exempts resident owner occupied transient accommodations in any zone from even having to register. By definition in the proposed Bill they will not even be called a TA/STR, however, in all other counties they would be called a B&B or communalized home/residential use.

The Coalition respectfully requests that portion of the Bill establishing a real property tax rate be stricken.

Item 2 in the Bill: Develop a process to expediently issue special use permits to, and collect all applicable taxes from, qualifying properties.

"Expediently" as used here and elsewhere needs to be defined. Not every county issues "special use permits" and what is the necessity to change the systems that already exist for permitting or registration in three counties.

Most importantly, what does it mean "collect all applicable taxes." What would these taxes be? Counties only have authority to collect property tax which is already well defined in code and it is also well defined when those taxes are due. What tax would be due when a permit is issued? Does this paragraph seek to establish a new tax for the counties?

Item 4 in the Bill: Established an expedited process for addressing alleged violations of zoning and special use permits laws and ordinance.

All counties already have a process for zoning and permit violations. TA/STR violations are procedurally the same as any other zoning and permit violations.

The Coalition believes that the counties could each benefit from a one million dollar grant to be used for strengthening their regulations, however, many of the provisions of this Bill are duplicative and already exist. Also the creation of a uniform tax rate is problematic as noted above and not necessary as each county already sets their rates for each category of taxation.

We respectfully request this Bill be deferred.



**LATE**

**HB-2605-HD-1**

Submitted on: 2/27/2018 2:22:39 PM

Testimony for FIN on 2/28/2018 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stefan Buchta	Leleiwi Community Association	Support	No

Comments:



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2605, H.D. 1, RELATING TO TRANSIENT ACCOMMODATIONS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**LATE**

**DATE:** Wednesday, February 28, 2018      **TIME:** 1:00 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Randall S. Nishiyama, Deputy Attorney General

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Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill provides for fiscal year 2018-2019 that a county shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transit accommodations provided that no funds shall be released to a county until it has satisfactory complied with the specified conditions. This bill also makes an appropriation of transient accommodations tax ("TAT") revenues to the counties.

We note that the bill could be read in two ways.

First, if the \$4,000,000 allocation to the counties comes out of section 237D-6.5(b)'s "excess revenues" which are deposited into the general fund, then such moneys would be subject to appropriation. Consequently, the wording of section 2 of the bill is correct.

Second, however, if the \$4,000,000 allocation to the counties is meant to come out of the TAT revenues before section 237D-6.5(b)(4)'s \$103,000,000 allocation to the counties, then such moneys would be distributed by allocation and not by appropriation. If this is the intent of bill, then we suggest that section 2 of the bill be amended as follows to provide for the allocation of such moneys:

"SECTION 2. There is ~~[appropriated]~~ allocated out of the revenues collected under chapter 237D, Hawaii Revised Statutes, prior to any distribution to the counties under section 237D-6.5, Hawaii Revised Statutes, the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2018-2019 for the counties of Honolulu, Maui, Hawaii, and Kauai to enforce all applicable laws and ordinances relating to transient accommodations as established in this Act; provided that no respective county shall receive more than \$1,000,000 from this ~~[appropriation]~~ allocation.

The sum ~~[appropriated]~~ allocated shall be expended by the respective counties for the purposes of this Act.

~~[Any unexpended balance of any appropriation made by this Act as of the close of business on June 30, 2019, shall lapse into the general fund.]~~

We respectfully ask the Committee to consider these comments.



**LATE**

**HB2605 HD1**  
**RELATING TO TRANSIENT ACCOMMODATIONS**  
House Committee on Finance

February 28, 2018

1:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2605 HD1, which seeks to provide funding for county enforcement of regulations relating to transient vacation rentals. Given the impact of illegal transient vacation rentals on housing opportunities for Native Hawaiians and other Hawai'i residents, and the difficulties that the counties have thus far encountered in addressing the proliferation of such unlawful land uses, OHA respectfully suggests that county enforcement may require additional statutory changes, such as the regulatory framework proposed in SB2963 SD1.

**As home prices, rental prices, and homelessness continue to increase, and as the State anticipates additional population growth and an associated demand for more housing over the next decade,<sup>1</sup> land-use planning that ensures housing affordability and availability is more critical now than ever before.** As the legislature recognizes, Hawai'i is in the midst of an affordable housing crisis: recent research indicates a need for 65,000 more housing units by 2025, with half of this demand for units at or below 60% of the Area Median Income (AMI);<sup>2</sup> only 11 percent of this demand is for housing units at or above 140% AMI, or for units that do not meet the State's current definition of "affordable housing."<sup>3</sup> **With 48% of households in the State already unable to afford basic household necessities including housing, food, transportation, health care, and child care,<sup>4</sup> the lack of affordable housing and rising housing costs require bold and aggressive policies that meaningfully prioritize the housing needs of local residents.**

**Native Hawaiians are particularly disadvantaged by land uses that contribute to our residential housing challenges, including increased rental housing costs and shortages in our rental housing supply.** Native Hawaiians are less likely to own a home and, therefore, disproportionately rely on the rental housing market.<sup>5</sup> Native Hawaiian

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<sup>1</sup> See SMS, HAWAII' I HOUSING PLANNING STUDY, at 34 (2016), available at [https://dbedt.hawaii.gov/hhfdc/files/2017/03/State\\_HHPS2016\\_Report\\_031317\\_final.pdf](https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf)

<sup>2</sup> See *id.*

<sup>3</sup> See *id.* at 34.

<sup>4</sup> ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAII' I (2017)

<sup>5</sup> See OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN HOMEOWNERSHIP HO'OKAHUA WAIWAI FACT SHEET VOL.2016, NO. 1, page 3, available at

<https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/NH-Homeownership-Fact-Sheet-2016.pdf>. This figure includes 8,329 DHHL residential lease "owner-occupied" property units. DHHL ANNUAL REPORT 2014, at 47, available at

households are also much more likely to be “doubled up,” with multi-generational or unrelated individuals living together in single households,<sup>6</sup> and Native Hawaiian households are more than three times more likely have a “hidden homeless” family member than all state households.<sup>7</sup> Accordingly, increases in rental housing costs and shortages in affordable residential rental opportunities may have a particularly high impact on the housing and financial security of the Native Hawaiian community.

**Unfortunately, the unaddressed proliferation of illegal vacation rentals may exacerbate the rise in rental housing costs beyond what Honolulu residents and Native Hawaiians are able to afford, and has directly removed much-needed housing units from the residential rental market.** The 2016 Hawai‘i Housing Planning Study estimates that there are now 28,397 non-commercial vacation rentals, located in nearly all communities in Hawai‘i;<sup>8</sup> much if not a majority of these rentals are likely illegal. Not surprisingly, the proliferation of such units, which generate nearly 3.5 times more income than the average long-term residential rental,<sup>9</sup> has correlated with substantially increased housing costs throughout the islands: over the past several years, Honolulu in particular saw the highest rates of increase in average monthly rent and average daily rent; during this time, the number of vacation rentals increased by 34% per year.<sup>10</sup> In addition to raising the costs of available residential rental units, the proliferation of illegal vacation rentals also represents a direct loss of housing units from the long-term residential rental market.<sup>11</sup>

Clearly, allowing the continued illegal use of housing units for vacation rentals will only exacerbate our housing crisis. Without more meaningful regulatory and enforcement mechanisms, there is nothing to mitigate the negative impacts of illegal vacation rentals on housing opportunities for Native Hawaiians and other local residents. In contrast, each and every illegal vacation rental unit that is returned to long-term residential use is one more unit that can help meet our existing housing demand.<sup>12</sup> **Accordingly, OHA has advocated for legislation that will improve regulatory and enforcement approaches that**

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<http://dhhl.hawaii.gov/wpcontent/uploads/2011/11/DHHL-Annual-Report-2014-Web.pdf>. For non-DHHL properties, the Native Hawaiian homeownership rate is therefore 41.2%, 15.5 percentage points below the statewide rate.

<sup>6</sup> 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. SMS, *supra* note 1, at 70.

<sup>7</sup> 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. *Id.*

<sup>8</sup> There are an estimated 45,075 total vacation rental units measured by the study. The study estimates that at least 37% of these rentals are ‘commercial’ rentals, or resort condominium and condominium hotel properties which are legally permitted commercial operations. As such, the study estimates that 28,397 units are non-commercial, i.e. unlawful, transient vacation rentals. SMS, *supra* note 1, at 58.

<sup>9</sup> SMS, *supra* note 1, at 55.

<sup>10</sup> Honolulu’s average monthly rent growth rate was 26.1%, and the six-year growth rate of average daily rental rate was 47%. SMS, THE IMPACT OF VACATION RENTAL UNITS IN HAWAI‘I, 2016, at 8, available at <http://www.hawaiitourismauthority.org/default/assets/File/Housing%20and%20Tourism%20113016.pdf>

<sup>11</sup> The Hawai‘i Tourism Authority’s 2016 study found that vacation rentals increased by 34% per year between 2005 and 2015. Further investigation found that between 2011 and 2014, units held for seasonal use and not available for long term rent increased by 12%. See *id.* at 3.

<sup>12</sup> See generally SMS, *supra* note 1.

**can systemically curb and reverse the impact that illegal vacation rentals continue to have on residential housing opportunities in Hawai'i.**

In light of the above, OHA respectfully recommends that the Committee consider and support the robust enforcement framework proposed in other measures, such as SB2963 SD1. This measure includes mandatory compliance monitoring and reporting requirements for transient vacation rental brokers who wish to act as tax collection agents on behalf of rental operators; the requirement that brokers remove listings for illegal vacation rentals; and the disgorgement of profits derived from illegal vacation rental activity, along with additional strict penalties for noncompliance by both brokers and operators. **Such provisions will appropriately hold those most responsible for our transient vacation rental problem directly accountable for their actions, and subject them to strict penalties that reflect the magnitude of our growing housing crisis.**

As a final note, research shows that vacation rental activity in the State generally is not likely to provide meaningful and long-term economic benefits to Hawai'i or its residents, including Native Hawaiians. Data has shown that **70% of properties listed as vacation rentals in Hawai'i are owned by out-of-state property owners** who do **not** reside in the islands.<sup>13</sup> Native Hawaiians in particular are less likely to benefit directly from a transient vacation rental operation; with Native Hawaiian homeownership rates lower than the state average, they are less likely to own second or additional homes that could be rented as vacation units.<sup>14</sup> As previously mentioned, Native Hawaiians also often live in overcrowded households, without the extra rooms needed to operate an owner-occupied vacation rental. As such, while some Hawai'i residents may be able to earn extra income from the use of a property as a vacation rental, vacation rental operations primarily benefit nonresident property owners and real estate speculators – who may also seek to buy out any vacation rentals operated by local residents, now and in the future.

In addition, other jurisdictions have found that any economic benefits gained from permitted short-term vacation rental operations are far outweighed by the larger social and economic costs of removing long term rentals from the housing market. **For example, an economic analysis by the City of San Francisco found a negative economic impact of \$300,000 for each housing unit used as a vacation rental, exceeding any economic benefits from visitor spending, hotel tax, and associated revenues.**<sup>15</sup> Again, the short-term benefits of vacation rental units to some property owners, including non-resident property owners and corporate vacation rental operators, are likely to be substantially

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<sup>13</sup> Notably, the Hawai'i Tourism Authority report found that 45,075 total properties are available for short term vacation rentals, with between 21,295 and 23,002 as non-commercial vacation rental units advertised in 2016. 70% of these properties are offered by out-of-state property owners. SMS, *supra* note 10, at 5-6.

<sup>14</sup> For non-DHHL properties, the Native Hawaiian homeownership rate is 41.2%, 15.5 percentage points below the statewide rate. See *supra* note 5.

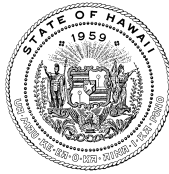
<sup>15</sup> See CITY OF SAN FRANCISCO, OFFICE OF THE CONTROLLER, AMENDING THE REGULATION OF SHORT-TERM RESIDENTIAL RENTALS: ECONOMIC IMPACT REPORT, May 2015, available at [http://sfcontroller.org/sites/default/files/FileCenter/Documents/6458150295\\_economic\\_impact\\_final.pdf?documentid=6457](http://sfcontroller.org/sites/default/files/FileCenter/Documents/6458150295_economic_impact_final.pdf?documentid=6457).



outweighed by the fiscal impacts on Honolulu and its residents from increased housing costs, increased real estate speculation, and the need for more social services and housing subsidies. **Accordingly, OHA strongly believes that regulatory and enforcement mechanisms that decrease the number of illegal vacation rental units operating in Hawai'i will best benefit Native Hawaiians and all Hawai'i residents.**

Mahalo nui for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



LAUREL A. JOHNSTON  
DIRECTOR  
  
KEN N. KITAMURA  
ACTING DEPUTY DIRECTOR

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

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

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

**WRITTEN ONLY**  
TESTIMONY BY LAUREL A. JOHNSTON  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 2605, H.D. 1



**February 28, 2018**  
**1:00 p.m.**  
**Room 308**

**RELATING TO TRANSIENT ACCOMMODATIONS**

House Bill No. 2605, H.D. 1, provides that a county shall be eligible to receive \$1 million from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. This measure also appropriates \$4 million from transient accommodations tax (TAT) revenues.

The Department of Budget and Finance (B&F) has concerns about this measure. This bill requires that the Governor instruct the Director of Finance to review whether a county's compliance with the specified conditions is satisfactory within 10 days of receiving written notification from the mayor of a county. B&F does not have the expertise to determine if a county's efforts to fulfill the specified conditions are "satisfactory" and to specify actions that a county must take to achieve "satisfactory" compliance, if necessary.

Alternatively, B&F could confirm if a county has taken action in regard to the specified conditions without making a determination of "satisfactory" compliance. We

are also concerned that there is no deadline for a county to submit their written notification; thus, B&F may not have sufficient time to conduct a review prior to the funds lapsing should a county submit their notification late in the fiscal year.

With regard to the \$4 million appropriation, TAT revenues can be allocated, not appropriated. As such, we suggest that Section 2 of the bill be amended to replace references to "appropriated" with "allocated" and "appropriation" with "allocation." The practice of directly allocating tax revenues, however, is a continued concern because such allocations do not appear to be subject to statutory and constitutional expenditure controls and the Executive Branch would have no ability to withhold such allocations during periods of economic downturn.

Thank you for your consideration of our comments.



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**David Y. Ige**  
*Governor*

**George D. Szigeti**  
*President and Chief Executive Officer*



Statement of  
**George D. Szigeti**  
Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**HB2605 HD1**  
**Relating to Transient Accommodations**  
House Committee on Finance  
Wednesday, February 28, 2018  
1:00 p.m.  
Conference Room 308

Chair Luke, Vice-Chair Cullen and Committee Members:

The Hawai'i Tourism Authority (HTA) offers the following comments on **HB2605 HD1**, which proposes to allocate \$1 million from Transient Accommodation Tax (TAT) revenues to each of the counties for enforcement of all applicable laws and ordinances relating to transient accommodations and short-term vacation rentals, provided that the counties implement specific legislation and approvals procedures relating to such enforcement.

As Hawai'i competes in the global tourism market, it is critical that we ensure safe and enjoyable visitor experiences whether our guests stay in legal traditional or alternative accommodations. Providing additional funding for enforcement to curb the spread of illegal vacation rentals and make operators more accountable will strengthen the quality of life for residents in communities on all islands and ensure a more positive experience for visitors choosing this form of lodging. Without commenting on the precise structure and terms of the bill, HTA supports the implementation of a regulatory framework that ensures that transient accommodation and short-term vacation rental operators pay applicable taxes and operate in compliance with State and county laws. A clear and fair regulatory framework will strengthen the quality of life for communities on all islands and ensure a more positive experience for visitors who choose alternative forms of lodging.

Mahalo for the opportunity to offer this testimony.

Harry Kim  
Mayor



Wil Okabe  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

County of Hawai'i  
Office of the Mayor

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February 27, 2018

**LATE**

Representative Sylvia Luke, Chair  
Committee on Finance  
Hawai'i State Capitol, Room 308  
Honolulu, HI 96813

Representative Ty J.K. Cullen, Vice-Chair  
Committee on Finance  
Hawai'i State Capitol, Room 308  
Honolulu, HI 96813

Dear Chair Luke, Vice-Chair Cullen and Committee Members:

**Re: HB 2605, HD 1 Relating to TAT**  
**Hearing Date: 02/28/18 – 1:00 pm; House Conference Room 308**

Thank you for this opportunity to testify on HB 2605, HD 1, offering the counties \$1M each to enforce "all applicable laws and ordinances relating to transient accommodations."

We appreciate the motivation behind this bill, which is to provide the counties with needed support in our efforts to contain the growing conversion of residential dwellings into commercial short term vacation rentals. Given our county's financial difficulties, it is hard not to support an opportunity to acquire \$1M. However, whether that sum could be wisely used for the limited purpose stated might depend on how long we would have to spend the funds.

We would not receive the money until we have met the conditions set out in the bill, which could take quite a bit of time, especially for Hawai'i County. We do not have a current vacation rental permit or specific appeal process for it, so we would have to design a system that would fit the criteria; where other islands need to tweak their systems, we would have to create them and then implement. Also, we do not yet have a separate real property tax class for vacation rentals. The class cannot be created for the FY 2019--it will be in FY 2020. We may set a rate in FY 2019, but it won't be effective until 2020.

Then, assuming we can fulfill our obligations under Section 1 of HB 2605, HD 1, it is unclear from the bill whether we would have to expend the money we receive by

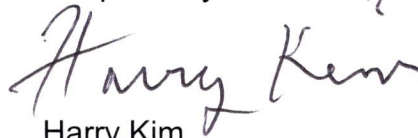
June 30, 2019, or whether that is only the lapsing date for the Governor to make payments to the counties. In either case, there would then be the question of a mechanism for determining that the funds are used for the stated purposes, how misspent funds would be recovered, what the appeal process would be, etc.

Perhaps a cleaner bill would be one that provides \$1M per county for meeting the criteria laid out, with a time frame longer than one year to accomplish the task. If and when a county meets the criteria, it would then receive the money without any restriction on how it is spent (although you can be sure that one way or another, many dollars will be spent annually as our Planning Department adds more staff to address permitting activity, appeals, complaints, violations and reporting requirements). The State will have met its main objective of getting the counties to deal with transit accommodations in the manner you deem appropriate, and the counties will have additional unrestricted funds to serve their constituents.

Finally, testimony from the Attorney General to the Committee on Tourism raised a question as to whether “the \$4,000,000 allocation to the counties is meant to come out of the TAT revenues before section 237D-6.5(b)(4)'s \$103,000,000 allocation to the counties.” We think it is clear that this \$4,000,000 is separate and in addition to the \$103,000,000 County portion of the TAT, but would ask that this be reemphasized, either in the bill or in the Committee Report from Finance.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "Harry Kim". The signature is written in a cursive, flowing style.

Harry Kim  
Mayor, County of Hawai'i



**LATE**

## HB 2605 Relating to Transient Accommodations February 28, 2018

Chair Onishi and Committee Members:

Our association was formed in 1980 to malama and protect the Leleiwi shoreline in Keaukaha, Hilo. Our community are all residents of the area and our association was started as part of a huge effort by the Keaukaha community to stop commercial endeavours in our neighborhood. We are zoned single-family residential. We are strongly in favor of the providing our county with funds that would help with any kind of short-term rental recognition, processing, and enforcement measures.

There are 4,860 short-term listings on AirBnB for the Big Island, not even counting VRBO and Homeaway.com. Every month, we are adding several hundred listings. No existing department in Hawaii County would be able to handle the load of recognition, processing, and enforcement of so many rentals alone. This measure would provide a substantial amount of money which would allow our county to put together a dedicated task force in order to move much faster.

Based on the experiences of cities on the mainland, particularly Santa Monica and San Francisco, it is crucial for the success of short-term rental control efforts that there be a new task force, dedicated only to short-term vacation rentals. We think it is fair to say that the situation regarding short-term rentals on our island is out of control and fast action is needed, or the damage to our residential- and Ag-zoned areas will be irreversible:

- There are now bidding wars between short-term rental developers and local Hilo residents who are trying to buy a residential lot in our neighborhood. In two recent cases, developers ended up offering cash and prevailed. This has created considerable ill-will between people.
- Almost 25% of our community are now "zombie residents", people who maintain homes here, live elsewhere, and don't engage and participate in our community. We have always had part-time residents, but the success of short term rental platforms has made the scenario so much more affordable and attractive. It allows people to use money earned in higher income areas -- San Francisco Bay Area, Seattle, Los Angeles -- to compete with local, lower income residents for buying a residential lot that they don't end up living on -- but that they rent out daily for profit.
- Last year, we started witnessing the emergence of powerful "commercial hosts" bringing major business activity to our area. A real estate developer from Los Angeles bought up half

of an entire residential block of houses. He rents out four entire houses to tourists on short-term basis. Now he is in the process of adding a small hotel next to the existing homes. He also owns and rents out three other beachside houses in another residential area of Puna on short-term rental sites.

- Some Big Island residential areas near us are getting totally swamped with short-term rentals. An example is tiny Volcano village, with 279 AirBnB listings alone. At what point does a place lose its character?

A lot is at stake here. We want our children to grow up in the same Hawai'i that we all hold dear, and not in an area that looks more like Miami Beach or Big Bear, CA, where 80% of homes are vacation rentals. Our most precious neighborhoods, once fairly peaceful with little traffic, just simple family homes and public parks, are being flooded with rental cars. Real estate investors seem to be everywhere, wanting to be part of the STR boom. Please help us by supporting this measure.

Mahalo Nui for the your consideration.

Stefan Buchta, Bea Larson, Louisa Lee, Kamala Anthony  
Leleiwi Community Association, 1994 Kalaniana'ole Avenue  
Hilo, Hawaii  
leleiwicomunity@gmail.com





**LATE**

February 28, 2018

Representative Sylvia J. Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
House Committee on Finance

**Comments and Proposed Amendments in Support of HB 2605, HD1, Relating to the Transient Accommodations (Provides that a county shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. Makes an appropriation from TAT revenues. Requires a report from a county receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances.)**

**Wednesday, February 28, 2018, 1:00 p.m., in Conference Room 308**

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 express its **comments and proposed amendment in support of the intent and purpose of HB 2605, HD1.**

**HB 2605, HD1.** This bill (1) provides that a county shall be eligible to receive \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions; (2) Makes an appropriation from TAT revenues; and (3) Requires a report from a county receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances.

**LURF's Position.** LURF supports the intent and purpose of this HB 2605, HD1, which is to assist the counties in enforcing transient accommodations and short-term vacation rental ordinances. However, LURF believes that this measure **should be amended** to revise the "length of stay" at a short-term vacation rental which a county must enact ordinances to regulate in order to receive transient accommodations tax revenues for enforcement **back to the original "length of stay" period in the original HB 2605 - thirty days**, instead of the HD1 revision of one-hundred eighty days.

Based on the above, LURF respectfully urges your favorable consideration of HB 2605, HD1, **with the amendment proposed above.**

Thank you for the opportunity to present testimony in support of this measure.

Please feel free to contact David Arakawa, LURF Executive Director, if there are any questions.