



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

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 2605, H.D. 2, S.D. 1, RELATING TO TRANSIENT ACCOMMODATIONS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 3, 2018

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Mary Bahng Yokota,
Deputy Attorney General, at 586-1470)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

The stated purpose of the first part of this bill “is to allow 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 in a manner that recognizes the dynamic changes that are occurring in the transient accommodations business.” Page 2, lines 4-9. The second part of the bill creates a new chapter in the Hawaii Revised Statutes (HRS) related to transient accommodations. Page 48, line 3, through page 51, line 20.

1. The bill expressly states that the first part of the bill is not intended to violate any federal laws. Page 2, lines 10-16. The intent not to violate the federal Communication Decency Act (CDA)¹ may be reinforced by amending subsection (i) to the new sections in chapter 237 and 237D, HRS, on page 10, line 10, through page 11, line 2, and page 21, lines 1-14, as follows:

(i) ~~All transient accommodations brokers, prior to placing an advertisement, including an online advertisement, on the availability of~~
When conducting business with an operator or plan manager with respect

¹ Section 230(c)(1) of the CDA provides that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider” 47 U.S.C.A. § 230(c)(1).

to a property for lease or rent on behalf of an operator or plan manager, a transient accommodations broker:

* * * * *

- (2) Shall require the operator or plan manager to provide the transient accommodations broker with the operator or plan manager's transient accommodations number and local contact information and ~~include~~ shall notify the operator or plan manager that this information is required in the advertisement, pursuant to advertisements for transient accommodations or resort time share vacation interests, plans, or units under section 237D-4. ...

2. The definition of "booking service" on page 12, lines 11-18, and page 23, lines 2-9, uses the term "transient vacation rental operator" but the term "transient vacation rental operator" is not defined. We recommend that the definition be added on page 13, line 8, and page 23, line 13. We note that part II of the bill defines the term as follows:

"Transient vacation rental operator" means any person operating a transient vacation rental, whether as owner or proprietor, or as lessee, sublessee, mortgagee in possession, licensee, or other, or engaging or continuing in any service business that involves the actual furnishing of a transient vacation rental.

Page 50, lines 4-9.

3. We recommend the following technical changes on page 51, lines 15-17:

§ -4 Penalties. (a) A violation of section -2 ~~shall be subject to~~ is a class C felony.

- (b) A violation of section -3 ~~shall be subject to~~ is a .

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**

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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 SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2605, H.D. 2, S.D. 1

**April 3, 2018
10:00 a.m.
Room 211**

LATE

RELATING TO TRANSIENT ACCOMMODATIONS

House Bill No. 2605, H.D. 2, S.D. 1: allows transient accommodation brokers to act as a tax collection agent on behalf of providers utilizing a broker's services, and sets the duties and reporting requirements of a broker acting as a tax collection agent; authorizes the counties to disgorge profits obtained through unfair or unlawful business practices and adopt zoning ordinances providing for the amortization or phasing out of vacation rental units; and allocates up to \$1,000,000 of Transient Accommodations Tax (TAT) revenues to each county, contingent upon each county establishing a process for providing verification of an operator or plan manager's compliance with county land use ordinances.

The Department of Budget and Finance takes no position on the authorization to allow transient accommodations brokers to register as tax collection agents or the new requirements placed on operators, plan managers, transient accommodations brokers, and hosting platforms; however, the department would like to note that it is unclear which agency will be responsible for determining that a county has established the verification process necessary to qualify for the TAT transfer pursuant to Section 7.

Furthermore, Section 7 of the measure may be more appropriately placed in Section 237D-6.5, HRS, which states, “Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter [on TAT] shall be distributed in the following priority, with the excess revenues to be deposited into the general fund . . .”

Thank you for your consideration of our comments.

LATE



HB2605 HD2 SD1
RELATING TO TRANSIENT ACCOMMODATIONS
Senate Committee on Ways and Means

April 3, 2018

10:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** HB2605 HD2 SD1, which seeks to improve enforcement of land use regulations relating to transient vacation rentals, while facilitating the collection of tax revenue from transient vacation rentals that comply with the law. Given the impact of unlawful transient vacation rentals on housing opportunities for Native Hawaiians and other Hawai'i residents, OHA appreciates and supports the strong and much-needed enforcement mechanisms that would be provided by this measure.

As home prices, rental prices, and homelessness continue to increase, and as O'ahu anticipates additional population growth and an associated demand for more housing over the next decade,¹ 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);² only 11 percent of State's housing 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."³ **With 48% of households in the State already unable to afford basic necessities including housing, food, transportation, health care, and child care,⁴ 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 local residential housing challenges, including increased rental housing costs and rental housing shortages in particular. Notably, Native Hawaiians are less likely to own a home and, therefore, disproportionately rely on the rental housing market.⁵ Native

¹ See SMS, HAWAI'I HOUSING PLANNING STUDY, at 34 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

² See *id.*

³ See *id.* at 34.

⁴ ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAI'I (2017)

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

Hawaiian households are also much more likely to be “doubled up,” with multi-generational or unrelated individuals living together in single households,⁶ and Native Hawaiian households are more than three times more likely have a ‘hidden homeless’ family member than all state households.⁷

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 28,397 non-commercial vacation rentals, located in nearly all communities in Hawai‘i.⁸ Not surprisingly, the proliferation of such units, which generate nearly 3.5 times more income than the average long term residential rental,⁹ has correlated with substantially increased housing costs throughout the islands; Honolulu in particular had the highest rates of increase in average monthly rent and average daily rent over the past several years.¹⁰ In addition to raising the costs of available long term rental units, the proliferation of illegal vacation rentals also represents a direct loss of housing units from the long term rental market.¹¹

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 stop 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.¹² **Accordingly, OHA has**

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

⁶ 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.

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

⁸ 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.

⁹ SMS, *supra* note 1, at 55.

¹⁰ 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.hawaiiourismauthority.org/default/assets/File/Housing%20and%20Tourism%20113016.pdf>

¹¹ 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.

¹² *See generally* SMS, *supra* note 1.

advocated for regulatory and enforcement approaches that may systemically curb and reverse the impact that illegal vacation rentals continue to have on residential housing opportunities in Hawai‘i.

Accordingly, OHA appreciates and strongly supports the robust enforcement framework provided for under this measure. This includes the mandatory compliance monitoring and reporting requirements imposed on 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 strict penalties for noncompliance on both brokers and operators that will deter further unlawful land uses. **Such provisions will appropriately hold those most responsible for our transient vacation rental problem directly accountable for their actions, and subject them to the 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.¹³ Native Hawaiians in particular are less likely to benefit directly from a transient vacation rental operation; with Native Hawaiian homeownership rates significantly lower than the state average, they are less likely to own second or additional homes that could be rented as vacation units.¹⁴ 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 that owned 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.**¹⁵ Again, the short-term benefits of vacation rental units to some property owners, including non-resident property

¹³ 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.

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

¹⁵ 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.

owners and corporate vacation rental operators, are likely to be substantially 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.**

Therefore, OHA urges the Committee to **PASS** HB2605 HD2 SD1. Mahalo nui for the opportunity to testify on this measure.



EXECUTIVE CHAMBERS
HONOLULU

LATE

DAVID Y. IGE
GOVERNOR

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

Before the
Senate Committee on Ways and Means
April 3, 2018
10:00 a.m., Conference Room 211

In consideration of
House Bill No. 2605, HD2, SD1
RELATING TO TRANSIENT ACCOMMODATIONS

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

Thank you for the opportunity to provide testimony Supporting the Intent of **House Bill 2605 HD2 SD1**.

Currently, many property owners in this State are renting their places to tourists and transients. This bill provides taxpayers the opportunity to pay delinquent taxes through an amnesty program, discourages unlawful transient vacation rentals, enhances the department of taxation's ability to collect taxes due through a tax collection agent, and protects property owners from unlicensed property managers.

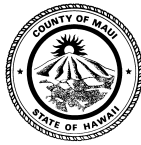
We defer specific comments to testimony submitted separately by the Department of Taxation and the Department of Attorney General.

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

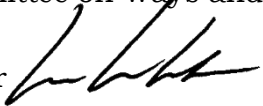


COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us



April 2, 2018

TO: The Honorable Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means

FROM: Mike White
Council Chair 

SUBJECT: **HEARING OF APRIL 3, 2018; TESTIMONY IN SUPPORT WITH
COMMENTS OF HB 2605, HD2, SD1, RELATING TO TRANSIENT
ACCOMMODATIONS**

Thank you for the opportunity to testify in **support with comments** of this important measure. The main purpose of this bill is to allow transient accommodations brokers to register as a tax collection agent on behalf of all of its operators and plan managers with certain requirements.

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. The counties currently have no recourse in preventing transient accommodations brokers from listing illegal rentals. Operators with listings on their platforms are allowed to conceal their rental locations, and operators are not required to prove compliance with local laws. Under these conditions, enforcement has been an ongoing challenge.
3. This proposal creates a clear process for the collection of taxes for online booking sites and requires collection agents to provide verification and a statement confirming compliance with all pertinent state and county land use and tax laws. **The counties should also be privy to the county related verification information submitted to the State.**

4. It is critical that the information obtained by the State be shared with the counties. This is the only way to achieve comprehensive regulation of short-term rentals.
5. **Key information on operators should also be available to counties when an online operator registers with the State. Waiting for critical information to be available until an annual or periodic report will unnecessarily restrict county enforcement efforts.**
6. Maui County has made revisions to the Maui County Code to enhance enforcement. A request for proposal was recently issued in attempts to explore more sophisticated short-term rental enforcement options. However, to be successful, it will take not only critical information, but adequate resources to protect legally licensed operators who are paying appropriate taxes and following land use laws. Funding assistance from the State is requested and greatly needed.

For the foregoing reasons, I **support** this measure and I hope that additional elements can be added to strengthen this bill.

Bernard P. Carvalho Jr.
Mayor



Michael A. Dahilig
Director of Planning

Wallace G. Rezentes Jr.
Managing Director

Ka'āina S. Hull
Deputy Director of Planning

PLANNING DEPARTMENT
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

LATE

Testimony Relating to Transient Accommodations HB2605 HD2 SD1
Before the Senate Committee on Ways and Means April 3, 2018 at 10:00 am
By Michael A. Dahilig Director of Planning, County of Kauai

Honorable Chair Dela Cruz, and Members of the Committee:

The County of Kauai Planning Department **STRONGLY SUPPORTS** HB2605 HD2 SD1. This bill strikes a fair balance between ensuring vacation rental transient activities pay their fair share in taxes, and preventing the Counties to be at a disadvantage in the regulation of their zoning laws. We further appreciate enhanced civil penalties relating to illegal vacation rental usage, and the ability to dispose of contested case hearings in a more efficient manner.

The improved County zoning authority in this bill will help us to hold illegal vacation rental operators responsible. We believe it will have a positive trickle down impact on preserving our local neighborhoods, keeping resort uses in resort areas, preserving our residential housing stock, and minimizing procedural barriers to insure timely due process.

Much has been raised by the transient accommodations brokers regarding potential preemption under federal law of the state's ability to hold them culpable for any items they post on their for-profit web interfaces. However, I would point to a recent U. S. District Court slip opinion in the U. S. District Court for the Central District of California just issued two weeks ago:

[I]ike the San Francisco ordinance, the City's Ordinance does not penalize Plaintiffs' publishing activities; rather, it seeks to keep them from facilitating business transactions on their sites that violate the law. This type of regulation falls outside the scope of the [Communications Decency Act] protections.

Home Away v. City of Santa Monica, 2018 WL 1281772.

The SD1 is largely based on language used in the San Francisco ordinance – an ordinance AirBNB has agreed to abide by. There should be no reason why AirBNB continues to fight these amendments and engage in scare tactics threatening legal action because of preemption.

Further, we have noticed the SD1 has removed any tax amnesty provisions available to operators, plan managers, and transient accommodation brokers. If the committee does reconsider amnesty, it should require that it be conditioned upon the standards of good conduct prescribed for tax collection agents for vacation rentals acting on behalf of the state.

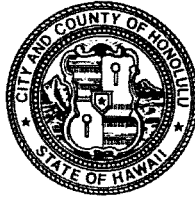
We respectfully urge **APPROVAL** of the bill. Thank you for the opportunity to comment.

An Equal Opportunity Employer

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
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

April 3, 2018

The Honorable Donovan Dela Cruz, Chair
and Members of the Committee on Ways and Means
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

LATE

Dear Chair Dela Cruz and Committee Members:

Subject: House Bill No. 2605, HD 2, SD 1
Relating to Transient Accommodations

The Department of Planning and Permitting (DPP) is pleased to **strongly support** House Bill No. 2605, HD 2, SD 1. It introduces significant new tools to help the counties better administer and enforce appropriate regulations on short-term vacation rentals, particularly in our residential neighborhoods.

The department takes no position on the establishment of registered tax collection agents and the tax amnesty program in this Bill. However, we do support:

- The requirement that registered tax collection agents must share information with the county planning directors and mayors, including the location of the vacation rental property, the name of the operator, and the number of nights the property was rented;
- The requirements that operators provide evidence that each property complies with applicable State and county land use laws, as confirmed by the appropriate agency;
- The requirement that any advertisement must be removed within seven days of notification if it does not adhere to the compliance requirements;
- The ability of counties to impose penalties, including disgorgement of unlawful profits gained from illegal businesses;
- The clarification of reasonable notice to correct any zoning violation;
- The ability of the counties to recover attorney fees and other costs of action from the violator;
- The establishment that advertisements not in compliance with given requirements may be liable for civil fines, as determined by each county; and

The Honorable Donovan Dela Cruz, Chair
and Members of the Committee on Ways and Means
Hawaii State Senate
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House Bill No. 2605, HD 2, SD 1
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- A more explicit policy regarding the counties' ability to amortize both conforming and non-conforming single-family transient vacation rental units.

We are appreciative of Section 7 of the Bill, which provides a financial incentive for counties to establish a verification process for transient vacation rentals.

Finally, we are in the process of drafting a bill that would permit more short-term rentals on Oahu, but the measure would call for stricter registration and enforcement requirements. The proposal also would prohibit unhosted, transient vacation units in residential areas. Shortly, we anticipate sending the bill to the Planning Commission, which would hold a public hearing and then forward a recommendation to the City Council for further discussion and action.

Thank you for the opportunity to testify.

Very truly yours,


Kathy Sokugawa
Acting Director

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
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LATE

April 2, 2018

TO: Honorable Donovan M. Dela Cruz , Chair
Senate Committee on Ways and Means

FROM: Bob Carroll 
Councilmember, East Maui

DATE:

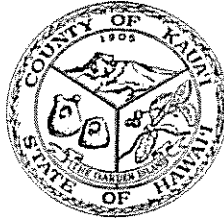
SUBJECT: **HEARING OF APRIL 3, 2018; TESTIMONY IN SUPPORT WITH
COMMENTS OF HB 2605, HD2, SD1, RELATING TO TRANSIENT
ACCOMMODATIONS**

Thank you for the opportunity to testify on this important initiative. The purpose of this measure is to allow transient accommodations brokers to register as a tax collection agents on behalf of all of its operators and plan managers with certain requirements.

With this said, I would like to forward a few critical comments regarding this legislation. I believe the counties should be privy to the county related verification information submitted to the State and that key information on operators should also be available to counties when an online operator registers with the State. Waiting for critical information to be available until an annual or periodic report will unnecessarily restrict county enforcement efforts.

With this expressed rational, I **support** this measure.

Bernard P. Carvalho Jr.
Mayor



Michael A. Dahilig
Director of Planning

Wallace G. Rezentes Jr.
Managing Director

Ka'āina S. Hull
Deputy Director of Planning

PLANNING DEPARTMENT
County of Kaua'i, State of Hawai'i
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LATE

Testimony Relating to Transient Accommodations HB2605 HD2 SD1
Before the Senate Committee on Ways and Means April 3, 2018 at 10:00 am
By Michael A. Dahilig Director of Planning, County of Kauai

Honorable Chair Dela Cruz, and Members of the Committee:

The County of Kauai Planning Department **STRONGLY SUPPORTS** HB2605 HD2 SD1. This bill strikes a fair balance between ensuring vacation rental transient activities pay their fair share in taxes, and preventing the Counties to be at a disadvantage in the regulation of their zoning laws. We further appreciate enhanced civil penalties relating to illegal vacation rental usage, and the ability to dispose of contested case hearings in a more efficient manner.

The improved County zoning authority in this bill will help us to hold illegal vacation rental operators responsible. We believe it will have a positive trickle down impact on preserving our local neighborhoods, keeping resort uses in resort areas, preserving our residential housing stock, and minimizing procedural barriers to insure timely due process.

Much has been raised by the transient accommodations brokers regarding potential preemption under federal law of the state's ability to hold them culpable for any items they post on their for-profit web interfaces. However, I would point to a recent U. S. District Court slip opinion in the U. S. District Court for the Central District of California just issued two weeks ago:

[I]ike the San Francisco ordinance, the City's Ordinance does not penalize Plaintiffs' publishing activities; rather, it seeks to keep them from facilitating business transactions on their sites that violate the law. This type of regulation falls outside the scope of the [Communications Decency Act] protections.

Home Away v. City of Santa Monica, 2018 WL 1281772.

The SD1 is largely based on language used in the San Francisco ordinance – an ordinance AirBNB has agreed to abide by. There should be no reason why AirBNB continues to fight these amendments and engage in scare tactics threatening legal action because of preemption.

Further, we have noticed the SD1 has removed any tax amnesty provisions available to operators, plan managers, and transient accommodation brokers. If the committee does reconsider amnesty, it should require that it be conditioned upon the standards of good conduct prescribed for tax collection agents for vacation rentals acting on behalf of the state.

We respectfully urge **APPROVAL** of the bill. Thank you for the opportunity to comment.

April 3, 2018

Hon. Donovan Dela Cruz
Chair, Committee on Ways and Means
Hawaii State Senate
415 S. Beretania Street, Room 208
Honolulu, Hawaii 96813



Re: Support for HB 2605 HD2, SD1- Relating to Transient Accommodations

Aloha Chairman Dela Cruz,

On behalf of Marriott International's 36 properties and nearly 5000 employees in the state of Hawaii, I write to express strong support for HB 2605 HD 2, SD1. As amended, this measure has incorporated the language and spirit of Senate Bill 2963, which we continue to support. We applaud the Hawaii State Senate's pursuit of a workable framework related to the taxation and regulation of short-term rentals in our state that will restore a level playing field within the local lodging industry and promote compliance with rules designed to protect and preserve Hawaii's communities.

We support the steps this measure takes to ensure transparency on the part of both rental operators and websites that facilitate rentals, aide counties in their efforts to enforce local regulations, and establish an equitable tax collection process for all parties who engage in the lodging business.

The provisions related to each of these areas are based on best practices borrowed from other jurisdictions that have successfully addressed the proliferation of short-term rentals. All are necessary to ensure only lawful rental units are on the market, and that applicable taxes are collected and remitted.

Increasingly, short-term rental units in Hawaii are owned by non-residents, real estate investors or commercial operators, and not by local homeowners attempting to occasionally supplement their income. Many are whole-unit rentals available full-time – essentially, unlicensed or illegal hotels — which take workforce housing supply off the local market and change the character of Hawaii's neighborhoods. As shown by a March 2017 study by CBRE, 85% of Airbnb's revenue on Oahu now comes from these commercial operations. This segment of the marketplace must be regulated accordingly.



HB 2605 HD 2, SD1 does that, striking the right balance between the goals of ensuring fairer competition within the lodging sector, short-term rental compliance with tax and local land use laws, and preserving lodging options for visitors to our beautiful islands.

For these reasons, we urge you and your respective committees to act favorably on HB 2605 HD 2, SD1 and move it toward passage.

Thank you for your consideration.

Mahalo nui loa,

Christopher Tatum
Area General Manager, Hawaii
Waikiki Marriott Beach Resort

cc: Honorable Members, Senate Committee on Ways and Means

April 2, 2018

The Honorable Donovan M. Dela Cruz
Chair – The Senate Committee on Ways and Means

LATE

Re: **HB2605 HD 2 SD 1 – Strong Support**

Aloha Chair Dela Cruz

Thank you for your continued leadership in the crackdown against illegal short term rentals in Hawaii. The American Hotel and Lodging Association offers our **strong support** for HB2605 HD 2 SD 1.

HB 2605 HD 2 SD 1 Advances Enforcement of Existing State Laws and County Land Use Ordinances

The passage of HB 2605 HD 2 SD 1 is important in order to advance, and not hinder, the enforcement of existing State laws and County land use ordinances. Significantly, the enforcement provisions of the bill apply to **all** transient accommodations brokers, whether or not they enter into tax collection agreements. The Counties have been strong proponents of the enforcement provisions of the bill (and similar provisions in SB 2999 and SB 2963 SD 1), as evidenced by their testimony in support of SB 2963 SD 1:

- City and County of Honolulu, Department of Permitting and Planning: “[SB 2963 Proposed SD 1] introduces significant new tools to help the counties better administer and enforce appropriate regulations on short-term vacation rentals, particularly in our residential neighborhoods.”
- County of Kauai, Planning Department: “The improved County zoning authority in [SB 2963 Proposed SD 1] will help us to hold illegal vacation rental operators responsible. We believe it will have a positive trickle-down impact on preserving our local neighborhoods, keeping resort uses in resort neighborhoods, preserving our residential housing stock, and minimizing procedural barriers to insure timely due process.”
- County of Hawaii, Planning Department: “Although Hawaii County does not have a transient vacation rental ordinance at this time, SB 2963 will support our eventual enforcement of illegal vacation units[.]”
- County of Maui, Department of Planning (on SB 2999): “From a land use perspective, we appreciate that this bill addresses the counties’ concerns and have



incorporated specific requirements therein. . . All of the enforcement tools will aid us in providing compliance with local laws[.]”

HB 2605 HD 2 SD 1 Is Legally Sound

HB 2605 HD 2 SD 1 is modeled after San Francisco’s Ordinance 178-16 (effective September 1, 2016), which made it a misdemeanor for hosting platforms to collect booking fees on illegal rentals. Airbnb and Homeaway challenged Ordinance 178-16 based on the Federal Communications Decency Act, strict criminal liability, and the First Amendment. On November 8, 2016, the U.S. District Court for the Northern District of California ruled **against** Airbnb and Homeaway, finding that the platforms were unlikely to prevail on the merits of their legal challenges.

Just last month in Santa Monica, A U.S. District Court judge ruled in the city of Santa Monica’s favor, declaring websites HomeAway and Airbnb did not demonstrate they are likely to prevail on claims Santa Monica’s short-term rental ordinance violates the Coastal Act, the Communications Decency Act or the First Amendment. In this case Judge Otis Wright said “The City’s Ordinance does not penalize Plaintiff’s publishing activities; rather, it seeks to keep them from facilitating business transactions on their sites that violate the law,” making a clear distinction between the rights of free speech on the web and the brokering of illegal activities for a fee.

Our Communities are at Stake

AHLA and our colleagues are committed to the wellbeing of Hawaii and the communities where are more then 110,000 member employees live, work and play. Illegal short term rentals turn our communities into a commodity, drive up the cost of living for locals, and take affordable housing stock away from Hawaii families. HB2605 HD 2 SD 1 remedies the blight of illegal short term rentals by giving counties the ability to actively enforce existing laws that are designed to protect Kama’aina.

For more than 100 years, the American Hotel & Lodging Association (AHLA) has been the foremost representative of and advocate for the U.S. lodging industry. We advocate for our members so they can do their best at what matters most: serving guests, employees and their communities. This is a job we take very seriously. Thank you for your hard work and leadership on this issue. We look forward to providing any information and support that you and your colleagues ask of us as we work together to make this good bill even better.

Aloha,

Kekoa McClellan
Spokesperson, The American Hotel and Lodging Association



List of Hawaii Based Members of the American Hotel and Lodging Association:

Ala Moana Hotel
Ambassador Hotel of Waikiki
Andaz Maui Wailea
Aqua Aloha Surf & Spa
Aqua Bamboo & Spa
Aqua Hokele Suites
Aqua Ilikai Hotel & Suites
Aqua Kauai Beach Resort
Aqua Kauai Shores
Aqua Lotus Honolulu
Aqua Luana Waikiki
Aqua Maile Sky Court
Aqua Maui Beach Hotel
Aqua Naniloa Surf Hotel
Aqua Pacific Monarch
Aqua Pagoda Hotel
Aqua Palms
Aqua Park Shore Waikiki
Aqua Queen Kapiolani
Aqua Skyline
Aqua Volcano House
Aqua Waikik Pearl
Aqua Waikiki Wave
Aqua White Sands Hotel
Aqua-Aston Hospitality
Army Lodging Fort Shafter
Army Lodging Tripler Army Medical Center
Aston Hotel Renew
Aston Hotels & Resorts
Aston Paki Maui
Aston Waikiki Beach Hotel
Aston Waimea Plantation Cottages
Autograph Collection Mauna Kea Beach Hotel
Best Western Pioneer Inn
Best Western the Plaza Hotel
Breakers Hotel
BRYCL Resorts International
Coconut Waikiki Hotel
Courtyard by Marriott Kauai at Coconut Beach
Courtyard by Marriott Kona Beach Hotel
Courtyard by Marriott Waikiki
Courtyard Kauai Coconut Beach



Courtyard Marriott Maui Kahului Airport
Courtyard Marriott Oahu North Shore
Courtyard Marriott Waikiki Beach
Courtyard Maui Kahului Airport
Days Inn Kihei
Embassy Suites Hotel - Waikiki Beach Walk
Four Seasons Lana`i at Manele Bay
Four Seasons Lana`i at The Lodge at Koele
Four Seasons Resort Hualalai
Four Seasons Resort Maui
Grand Hyatt Kauai
Grand Hyatt Kauai Resort & Spa
Grand Naniiloa Hotel a Doubletree
Grand Wailea Resort
Hale Koa Hotel
Halekulani
Hampton Inn and Suites Oahu Kapolei
Hapuna Beach Prince Hotel
Hawaii Prince Hotel Waikiki
Hilton Garden Inns
Hilton Hawaiian Village Waikiki Beach Resort
Hilton Honolulu Hawaiian Village
Hilton Waikiki Beach
Hilton Waikoloa Village
Hilton Waikoloa Village Resort & Spa
Holiday Inn Express and Suites Kailua-Kona
Holiday Inn Waikiki Beachcomber Resort
Honua Kai Resort & Spa
Honua Kai Resort and Spa
Hotel Molokai
Hotel Wailea Maui
Hyatt Place Waikiki Beach
Hyatt Regency Maui
Hyatt Regency Maui Resort & Spa
Hyatt Regency Waikiki
Ilima Hotel
Ka`anapali Beach Club
Ka`anapali Beach Hotel
Kahana Falls
Kamuela Inn
Kauaai Marriott Resort
Kauai Marriott Resort & Beach Club
Kiahuna Plantation Resort by Castle Resorts
Kilauea Lodge

Ko Olina Beach Villas Resort
Ko`a Kea Hotel & Resort
Kona Bayview Inn
Kona Coast Resort
Lawai Beach Resort
Lotus Honolulu
Maui Coast Hotel
Maui Condo and Home, LLC
Mauna Kea Beach Hotel
Mauna Lani Bay Hotel & Bungalows
Moana Surfrider, A Westin Resort
Moana Surfrider, A Westin Resort & Spa
Montage Kapalua Bay
Napili Kai Beach Resort
OHANA Waikiki East Hotel
OHANA Waikiki Malia
Outrigger Aina Nalu Resort
Outrigger Airport Honolulu Hotel
Outrigger at Lae Nani
Outrigger Enterprises Group
Outrigger Enterprises Group - Honolulu, HI
Outrigger Enterprises Group, Inc.
Outrigger Fairway Villas
Outrigger Hotels & Resorts
Outrigger Kiahuna Plantation
Outrigger Maui Eldorado
Outrigger Napili Shores
Outrigger Palms at Wailea
Outrigger Reef on the Beach
Outrigger Regency on Beachwalk
Outrigger Royal Kahana
Outrigger Royal Sea Cliff
Outrigger Waikiki on the Beach
Outrigger Waipouli Beach Resort & Spa
Pacific Beach Hotel
Pacific Marina Inn
Palm Villas at Mauna Lani
Plantation Hale Suites
Ramada Honolulu
Ramada Plaza Waikiki
Residence Inn by Marriott Maui Wailea
Royal Grove Hotel
Royal Kona Resort
Royal Lahaina Resort

Sheraton Kauai Resort
Sheraton Kona Resort & Spa at Keauhou Bay
Sheraton Maui Resort
Sheraton Princess Kaiulani
Sheraton Waikiki
Sheraton Waikiki Hotel
Shipman House Bed & Breakfast Inn
Shoreline Hotel Waikiki
St Regis Princeville Resort
Stay Hotel Waikiki
The Club at Ku Kūi`ula
The Club at Kukūi`ula
The Cottages & Villas at Turtle Bay Resort
The Fairmont Kea Lani, Maui
The Fairmont Orchid - Hawaii
The Imperial Hawaii Resort At Waikiki
The Kahala Hotel & Resort
The Modern Honolulu
The New Otani Kaimana Beach Hotel
The Outrigger Kapalua Villas
The Outrigger Waikoloa Beach Villas
The Point at Poipu, Diamond Resorts International
The Ritz-Carlton, Kapalua
The Royal Hawaiian Hotel
The Westin Ka'anapali Ocean Resort Villas
The Westin Maui Resort & Spa
The Westin Princeville Ocean Resort Villas
The Whaler on Kaaanapali Beach
Travaasa Hana
Trump International Hotel Waikiki Beach Walk
Two Roads Hospitality
Vive Hotel Waikiki
Waikiki Beach Marriott Resort & Spa
Waikiki Grand Hotel
Waikiki Parc Hotel
Waikiki Resort Hotel
Waikiki Sand Villa Hotel Honolulu
Waikiki Shore
Waikoloa Beach Marriott Resort & Spa
Wailea Beach Marriott Resort & Spa
Waldorf Astoria Grand Wailea Resort
Wyndham Koloa

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 3:10:59 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Keep It Kailua	Individual	Support	No

Comments:

Strongly support HB2605 HD2 SD1 as written

Traditionally, the rental housing market and the hospitality industry do not intersect. However, AirBnB and other internet vacation rental brokers have created a platform that allows landlords to pit tourist dollars against renter dollars. Landlords can potentially earn significantly more money by converting traditional rental stock into AirBnB units, as many appear to have done.

Hawaii cannot afford to lose housing units. Recent government reports verify the State of Hawaii is facing a housing shortage of over 55,000 residential homes within ten years. Visitor lodging businesses in residential zoning reduce the local housing supply. The belief that owner-occupied vacation rentals do not reduce the housing supply is false. Apartments attached to homes, studios, cottages, Ohana units and ADU's are desperately needed housing in our residential community. The vast majority of young singles and young married couples "cannot" afford to purchase or rent an entire house. Vacation rentals of any type or form not only reduce the supply of long-term rentals, they also drive up rental rates for long-term rentals.

Visitor lodging businesses in our neighborhoods also change the "residential character" of our neighborhoods and the entire community by displacing local neighbors from our neighborhoods with a revolving door of strangers. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach paddling, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community.

Thank you for your consideration.

Keep it Kailua

Keep It Kailua is a grassroots community group founded in 2004 whose purpose is to retain Kailua's family-oriented residential character and quality of life.

Keep It Kailua's goals are to:

- Protect residential zoning and promote permanent residency in our neighborhoods*
- Preserve and enhance scenic, civic, recreational and cultural features that define Kailua's sense of place*
- Protect water resources essential to the health of the environment*
- Preserve trees and maintain open green space*
- Promote walking and the use of non-motorized bicycles as alternatives to automobile transportation within and around the town*
- Promote businesses that serve the residential community*
- Support other community groups with similar goals*

Please visit us at www.keepitkailua.com



Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

Monday, April 2, 2018

Senate Committee on Ways & Means
Hawaii State Legislature
State Capitol
415 South Beretania Street

LATE

Re: HB 2605 HD2, SD 1

Aloha Chair DelaCruz and Committee Members,

UNITE HERE Local 5 – a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii would like to offer comments supporting the intent of HB 2605 HD 2, SD 1.

While we recognize the hard work of your Committees in addressing the legal concerns raised by those that oppose sensible regulations regarding illegal vacation rentals, we would also encourage your Committees to remain steadfast in requiring platforms such as AirBnb be transparent in their representations before the Legislature.

We would also like to offer one amendment to the proposed SD 1 for the purposes of providing additional clarity and accuracy:

- 1) We would propose deleting the word “land use” starting on Line 2 of PG 9 then throughout the proposed SD1. Its use is unnecessarily narrow. Online platforms and the scope of their businesses go beyond that of just land use laws.

Stored Communications Act

The Stored Communications Act (“SCA”), 18 U.S.C. § 2701 (a)(1), was enacted to protect telephone and email messages, not commercial website transactions. This is shown by the very cases AirBnb cites. In *Brown Jordan International, Inc. v. Carmicle*, 846 F.3d 1167 (11th Cir. 2017), the defendant was an employee of Brown Jordan, the furniture maker. He got into the Brown Jordan email system and “accessed other employees’ emails without authorization.” *Id.* At 1175. In *Crispin v. Audigier*, 717 F.2d 965 (C.C. Cal. 2010), subpoenas to Media Temple, Facebook and MySpace were involved. The subpoenas attempted to retrieve messages to and from the plaintiff, Crispin. The court held that these social media were like electronic bulletin boards and they were subject to the SCA only to the extent messages posted on them were kept

private.

Transactions on a publicly-open website like Airbnb are not covered by the SCA. *Keithly v. Intelius, Inc.*, 764 F.Supp.2d 1257, 1271-72 (W.D. Wash. 2011). “Intelius is an on-line information service. Customers can go to Intelius’ website and, among other things, purchase background check, search for individuals, and identify callers by cellphone number.” *Id.* at 1262-63. People who go to this website may purchase these services. *Id.* at 1263. The court held that Intelius is not subject to the SCA. “Intelius is not an internet service provider, telecommunications company, or a public carrier of any kind. Although it uses electronic communications to conduct its business on the internet, it does not provide the wire or electronic communications services utilized by its customers and is therefore not subject to the SCA.” *Id.* at 1271-72 . This conclusion applies equally to Airbnb – and to many other public, commercial websites which are used for purchasing goods and services not as telecommunications facilities. *See also Crowley v. CyberSource Corp.*, 166 F.2d 1263, 1270-71 (N.D. Cal 2001)(Amazon is not an electronic communication service).

Homeaway.com, Inc. v. City of Portland, Civil No. 3:17-cv-00091, pending in the United States District Court for the District of Oregon, is not what Airbnb says it is. Notably, Airbnb does not cite any particular order of the court let alone provide a copy of any decision showing that the court has endorsed the idea that a site like Airbnb or Homeaway comes within the meaning of the SCA. In Homeaway, the court has enjoined part of the city of Portland ordinance. It did not issue a written decision. Instead, the court has simply posted a “Minute Order”. The case is still in the early stages of litigation and hardly represents a precedent of any sort.

The SCA draws a distinction between the “contents of electronic communications” and “records” of such communications. “Contents” are the substance of the communication itself. 18 U.S.C. § 2711(1). But records are just name, address, connection information, subscriber number or identity and means of payment. 18 U.S.C. § 2703(c)(2). Less protection is given to records than to contents. Importantly, a subscriber may challenge an order for release of content but not for release of records. *In Re: § 2703(d) Order*, 787 F.2d 430 (E.D. Va. 2011). Therefore, even if Airbnb was an electronic communications service, it would not be open to suit by any of its listers for reporting the records of their listings.

The impact of accepting Airbnb’s novel argument about the SCA would be far-reaching. No commercial website could be required to disclose any information about its users to the government. This would be true even when the website was being used to conduct illegal transactions — which is exactly what is happening here. Illegal short-term rentals may seem relatively benign but the argument also means that a website set up to facilitate drug transactions or prostitution could not be required to tell anything about its illegal listers. A very powerful showing of congressional intent would be required for this. Airbnb has offered none.

In any event, the SCA exempts disclosures which are authorized by users of electronic communications services. 18 U.S.C. § 2701(c)(2), § 2707(b)(3) and § 2707(c)(2). Airbnb obtains this authorization routinely and universally through its “Terms of Services” which provide that Airbnb may disclose any user information it receives when necessary to “comply with our legal obligations” and “protect the rights . . . of Airbnb.” The use of the Airbnb site must agree to these terms. Airbnb would therefore be able to comply with the reporting and disclosure provisions in SB 2999 and SB 2963 SD1.

Fourth Amendment: Patel v. City of Los Angeles

Airbnb’s argument based on *City of Los Angeles v. Patel*, 576 U.S. ___, 135 S.Ct. 2443 (2015) would have even more extraordinary consequences. *Patel* did not involve a reporting and disclosure law. Instead, it was about a Los Angeles ordinance requiring hotel and motel operators to open their books and records to government inspectors upon demand. *Patel* and the case it relied upon, *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523 (1967), have never been applied to reporting and disclosure laws. These laws are ubiquitous at every level of government and have never been found to violate the Fourth Amendment. There is no intimation in *Patel* that the decision extends any further than the type of action involved in that case: government arrogating to itself the power to look at privately-kept records whenever it chooses.

Conclusion

For the past three legislative sessions, Local 5 has argued that the key elements that at a minimum need to be included in whatever measure gets passed include:

- It must not preempt the counties’ ability to enact good regulations, and to the greatest extent possible improve the counties’ ability to make those regulations effective in practice;
- Rental operators should be required to certify to the tax collection broker that they are operating legally, and provide documentation to back that up;
- It should complement/supplement Act 204 in allowing the state to hold operators accountable; and
- Tax collection brokers should be required to operate transparently by providing lists of names and addresses of operators to the State so the State can verify that the money it is collecting reflects reality.

We believe HB 2605 HD 2, SD 1 take important steps that help ensure some of these points get addressed. We remain encouraged by provisions that would strengthen the Counties’ abilities to enforce against illegal short-term vacation rentals. Sections 10 & 11 in particular appear to allow for higher fines up to and including disgorgement,

sharing of data with the proper county authorities responsible for enforcement, and increased powers to enforce; these are all meaningful steps forward in this proposed draft that we hope will remain intact as this measure moves forward for more discussion.

We ask for your Committees support of the Senate Draft 1 with the amendment we offered.

Thank you.

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 10:35:25 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Allan Raikes	Testifying for Condominium Rentals Hawaii	Oppose	No

Comments:

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 1:35:40 PM
Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Lorenz	Testifying for Maui Nuts LLC	Oppose	No

Comments:

We support the testimony provided by RBOOA.

Randall Lorenz & Mary Nadolny

808-205-4246

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 10:40:25 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Jorgensen	Individual	Support	No

Comments:

I support this bill because it will hopefully crack down on the law-breaking landlords in Apartment/Residential zones.

There is a group of unit owners in the Waikiki Lanais, 2452 Tusitala St., that received a letter in early December 2017 from the property management company advising that the Department of Planning and Permitting determined that the building is in an Apartment Use only zone so the minimum rental is 30 days, and there are no active Nonconforming Use Certificates for that address.

These owners of short term rentals in the Waikiki Lanais condo building, despite being advised of the illegality of their vacation rentals, continue to advertise on Airbnb, HomeAway, VRBO, etc. and continue to have short term vacation rentals in the building.

These owners do not live in the units and do not have people stay in a guest bedroom or on the couch. These units are rented in their entirety; completely private rentals. Most of them were purchased for such an investment; financial hardship does not play a part in their decision to disobey the zoning law.

These owners are flagrantly breaking the zoning law, and it is no wonder that they will be against this bill. The state needs to do something about these illegal rentals now, no matter what happens to this bill.

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 10:47:34 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terri Watson	Individual	Oppose	No

Comments:

Dear Chair Senator Dela Cruz, Vice Chair Senator Keith-Agaran, and the Ways and Means Committee:

I live in Kailua, am a homeowner here, and am well acquainted with the many issues around vacation rentals in our area. They are out of control and need regulation, but this bill it NOT it. Thus, I am testifying in opposition to HB2605, SD1

The issues with transient accommodations are not primarily about taxes. I know many individuals who run "illegal" rentals, and every one of them pays the GET/TAT. This bill might provide more money to the state, but it in no way addresses the issues of noise, overcrowding and other concerns when residential neighbors run de facto hotels or resort accommodations.

Additionally, the method that this bill intends to use, to collect taxes, is both unfair and not feasible. It is not fair in that if the online listing agency makes a mistake in reporting, the homeowner is penalized. You can't do that -- even the IRS doesn't do that. In addition, requiring the homeowner to provide some proof that their accommodation meets local requirements --- unless you task the listing platform to somehow track local ordinances (hard enough for even locals to do!), this has not teeth and no ability to comply.

Transient accommodations are a challenge because the state only sees the issue as a tax/revenue issue, and the local towns and cities see it as a lack of compliance with zoning ordinances issue. Until a solution that integrates both of these concerns is found, you will make no headway.

I do not currently rent any of my home to vacationers. I likely will in the future as a supplement to retirement income so that I can keep paying my mortgage. I will live in the same home as the rental, and I will collect and pay taxes -- because both are the right things to do. I will also be abiding by the 30 day minimum rule, but think that a well regulated alternative accommodation industry could work.

But this bill solves none of these things, and more importantly, puts law abiding homeowners at risk by holding them accountable to an online platform's performance of their duties. It also feels like it violates basic privacy.

Thanks for your consideration.

HB-2605-SD-1

Submitted on: 4/2/2018 10:44:50 AM

Testimony for WAM on 4/3/2018 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Individual	Oppose	No

Comments:

This Bill will hurt Hawaii's economy with an adverse effect on tourism. It ignores the shift in change in traveler's preferences for accommodations. This bill is not the best approach.

HB-2605-SD-1

Submitted on: 4/2/2018 10:22:48 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Donato Pompo	Individual	Oppose	No

Comments:

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Mahalo,

Donato

Donato and Tricia Pompo

Pompo Beach Villas Condo

78-6721 Ali'i Drive, Condo 2-201 and 2-104

Kailua-Kona, HI 96740

Tel: 619-823.2872

E-mail: Donato@CTaSC.com

Web: www.KonaBeachCondo.com

"Attention to detail keeps quality within reach..."

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 11:07:04 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Denise Boisvert	Individual	Support	No

Comments:

I strongly support this bill because it addresses landlords who are land use law-breakers. The easy-to-use web-based reservation sites have caused a proliferation of illegal rentals.

Licensed real estate agents and individual investors actively rent short-term rentals at the Waikiki Lanais, 2452 Tusitala St. in Waikiki. They were formally informed by the Department of Planning and Permitting 4 months ago that the building is zoned for residential/apartment use only with a minimum of 30 days rental, yet they are still advertising and illegally accommodating short-term rental vacationers. Isn't this also a violation of a real estate license?

The State needs to stop these illegal rentals that are disturbing the peace and tranquility of long-term residents. The condo units in the Waikiki Lanais building are advertised as private, non-shared condo rentals, and most have a minimum of 3 nights. Some floors have 6 to 8 out of 10 units as vacation rentals!

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 12:03:49 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Robertson	Individual	Support	No

Comments:

As a resident in the Apartment District of Waikiki, I appreciate the Legislature's efforts to control short term vacation rentals. I reside in a building in which short term rentals are not allowed (Waikiki Lanais) due to zoning. The condo board sought and received an unqualified decision regarding this matter and notified operators of short term rentals. Nonetheless, there are multiple illegal short term rental advertisements still online and these illegal businesses are continuing in the building. Operators of these illegal rentals have tried to take over the Board in order to eliminate enforcement. Our buiding has been a close-knit residential community for 40 years, but in the last 2-3 years it has started to feel like living in a hotel. Our neighbors are being replaced by strangers who come and go every few days. Our laundry room is overwhelmed by cleaning services that are in the building nonstop. We are happy to welcome vacationers into the building in legal rentals, but we need your help to control illegal short term rentals that are destroying the community spirit of our building. We need you to clarify the rules, define stiff penalties, establish easy reporting protocols, and strengthen penalties and enforcement.

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 12:10:08 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Morley	Individual	Oppose	No

Comments:

Dear Chair Senator Dela Cruz, Vice Chair Senator Keith-Agaran, Ways and Means Committee:

I am writing to express my opposition to the proposed HB 2605 SD1 measure. I have been a vacation rental property owner on Maui since 2005 and have faithfully paid my GE and TA taxes during every period since that time. More and more of my rental reservations are coming to me through the web-based booking agencies such as HomeAway and AirBnb. These organizations have been very effective at providing me with strong bookings, but, at least in the case of AirBnb, they have not been able to collect the required GE and TA taxes as an explicit charge in Hawaii due to current regulations. We have to pay these taxes from the net rental that the tenant pays and this adds confusion to the tenants who perceive that, depending on how they book with us, they either do or do not pay the 14.42% taxes. Of course, this is not true, they pay anyway, but it is very confusing that AirBnb cannot explicitly charge these taxes. We have used AirBnb for vacation rentals in other states and cities and they are able to show the taxes explicitly, but not in Hawaii. We support the idea of modifying Hawaii law so that these taxes can be collected by these third party agencies, but the proposed amendments to HB 2605 go FAR beyond making this tax collection more convenient and try to add extra burden on property owners and their booking agencies. I understand that many vacation owners do not properly pay their taxes and I agree that better enforcement against these tax scofflaws is needed, but not by adding an onerous burden to the tax paying owners, like me, and to our booking agents.

The recent increases in TA tax rates by almost 30% over the past 10 years has already made Hawaii a more expensive alternative for vacationers who we find are now seeking lower cost options, such as resorts in Mexico and the Caribbean. To now add an even more confusing and laborious burden to tax-paying owners who are working to attract more visitors to Hawaii is counter-productive to the legislature's intentions. PLEASE do not harm Hawaii's economy and the vacation rental industry by this measure. PLEASE reject this measure until it does what it is supposed to -- to make it easier for proper TA and GE taxes to be collected for vacation rentals. Find another way to enforce the tax laws rather than hurt the whole economy by burdening the tourism industry in this way. Thank you for your consideration.

Sincerely,

Steven Morley

Vacation Rental Property Owner on Maui

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 12:16:00 PM
Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
L Fre	Individual	Oppose	No

Comments:

Please defer this Bill.

This Bill requires brokers to share personal information with the state and counties. I draw your attention to the current Facebook issue over personal information being shared and the strong opposition it has created and public outcry over it. People do care more than this Legislature realizes that their personal information remain personal. Asking for "consent" is problematic because if a person refuses "consent" they are barred from access to advertising. In other words, it is not voluntary consent at all - it is compusory requiring a person to give up their right to privacy or they may not participate.

The Bill's provision for "disgorgement" is excessively harsh and not consistent with other laws for violations of ordinances and rules. It is also inconsistent with other penalties for violations in other forms of commerce. Taking a person's home as a penalty is an extreme act on the part of a governmental entity.

Phasing out legally operating conforming (by zone) and non-conforming (permitted) transient accommodations is very harsh. Renting of individually owned transient accommodations has been taking place in Hawaii for decades. It is not a new event. It has occurred long before the internet brokers existed. This would also be a form of "government taking" that would have significant financial impact for the government.

Counties already possess the authority to regulate vacation rentals. This Bill is not needed to collect taxes (the State's interest) nor enforce zoning (the counties' interests). Tax laws already exist. The DoT is collecting taxes and pursuing those who do not pay. The counties already regulate transient accommodations. Each county has their own autonomy to regulate as they deem appropriate for their goals.

Please defer this Bill. Thank you.

HB-2605-SD-1

Submitted on: 4/2/2018 12:26:14 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
kahea zietz	Individual	Oppose	No

Comments:

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 12:43:31 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark R. Hagadone, Ph.D., FACFE	Individual	Oppose	No

Comments:

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

TO: Chair Senator Dela Cruz, and honorable members of the Ways & Means Committee:

My name is Mark Hagadone and I am testifying **in opposition to** HB2605 SD1 Relating to Transient Accommodations.

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, my mortgage and our property taxes. I was raised in the islands and we all know how difficult it can be to make ends meet on a fixed income. This is especially important since I am 66 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 deliberately utilize "on-property" parking and are always present onsite during our rentals. Our unit uses **LESS** City and COUNTY infrastructure, water, sewage, electricity and on-street resources than a traditional long term rental. Our guests are well mannered and world class travelers interested in contributing and participating in our local communities to experience the **ALOHA** of our residents. They utilize the local economy, the stores, the shops and the shopping malls and warehouses while visiting our beautiful and vibrant community. They have an opportunity to really see the human and aloha side of Honolulu, and speak highly of it when they leave, promoting our travel industry. It is a positive win/ win, sustainable situation which works for all parties both local and overseas.

The revenue generated from this immerging industry can help the State to meet its budget shortfall and ensure everyone in this vibrant industry is allowed to share the ALOHA Hawaii has to offer all visitors to the Islands. It is much less sterile than the typical Hotel stay in downtown Waikiki, and our new class of visitors know this!. The proposed BILL would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. Senitor Dela Cruz,

this is NOT how to stimulate and encourage sharing, community, economy and aloha for our Islands.

I also question whether or not this Bill is in violation of several Federal Statutes which govern sharing of private and confidential information.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the same key issues highlighted in the proposed HB2605.

Senator I am advocating **deferring** this Bill to allow the City and County Honolulu and the Hawaii County to update their regulations first to harmonize the legislative efforts in an attempt to avoid unintended consequences of multiple, disjointed approaches to the same issues.

I urge you to STOP HB2605, SD2 SD1 and **DEFER** this bill in this committee at this time.

Thank you and ALOHA for taking the time to consider my testimony, I know that in this election year, your position on this Bill will make a significant impact on our local community.

Aloha

Mark R. Hagadone

3900 Niele Place

Honolulu, Hawaii 96816

HB-2605-SD-1

Submitted on: 4/2/2018 1:37:50 PM

Testimony for WAM on 4/3/2018 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Karen Burt	Individual	Oppose	No

Comments:

To: Chair Senator Dela Cruz, Vice Chair Senator Keith-Agaran, and the Ways and Means Committee

I am a single stay-at home nursing mom with a baby (15 month old) living in Makawao. I own my own home.

I am writing to ask the Committee to carefully craft this Legislation so as to specifically limit non-resident investors using the airbnb platform as a commercial venture, who remove financial resources from the island and contribute to the limited rental property available to island residents.

If the Legislation targeted these two problem areas (that is removing money from the Island and limiting rental property to Island residents) then the intent of the Bill would have wide support and be non harming to actual resident home owners who may on occasion house visitors to support their own local economy and home purchase costs.

I am testifying in OPPOSITION to HB 2605, SD1.

My home contains a one-bedroom ohana which I rent out to a 71 year old HUD recipient.

I currently can not meet my monthly expenses, even with this income, and be a stay at home mom. The ohana rental helps but it is not enough for me to meet my monthly expenses. I do not receive any government assistance. I have a spare room in my home. I have tried renting it to a local person. It doesn't suit my living situation with my son and having researched it, I know I can get a better income if I could rent it out for short term accomodation through AirBNB.

I am supportive of AirBNB if it is used for Island residents to gain some supplementary income.

(but can agree entirely that non resident investors using vacation rental platforms have damaged the rental market negatively affecting local families and causing economic loss to the local economy.)

I like what AirBNB offers because:

1. I could use my spare room as a financial resource to bring in additional income without committing to having a person in my home for a long period of time due to the size and floor plan of my dwelling. Hosting short term renters, who are students, travelling nurses, writers or visitors would allow me more control of my home environment, meet my house payment responsibilities and allow the room to be vacant at times when relatives etc might visit. (Grandparents, Aunts, Uncles, Cousins etc.)
2. I could get a premium rate by using AirBNB.
3. AirBNB gives accountability to guests. and therefore they fit with rules set by the landlord.
4. Receiving the room fee is secure.
5. AirBNBs verification and acceptance process gives security to having a stranger come and stay.

I want the law to be supportive to Island residents who own and live full time in their homes. This could be monitored by those qualifying for homeowners exemption on the property tax. Especially if they are ALREADY providing accommodation to local people, as I am.

Many people struggling here with the high cost of living could use their home as a resource to generate additional income if they have a spare room. Yet proper legislation is needed to prevent off island property investors to so negatively effect the housing situation, particularly on Maui.

Please consider a way that allows AirBNB to be used by Island residents to rent out a spare room in their home in a fair and just way.

I DO NOT support AirBNB being used for non residents to rent out investment properties at a detriment to providing fair-priced accommodation to local people. Please craft your Legislation to correct the greatest area of abuse rather than a broad prohibition that would also cause difficulties to actual homeowners resident on the Island.

I would like to thank the Chair and Committee for their time.

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 2:48:18 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
K Yanov	Individual	Oppose	No

Comments:

I strongly oppose HB2605 HD2 SD1 and feel the state needs to come up with compromisable regulations for Short Term Rentals to operate legally and in harmony within the community.

This bill isn't just bad, it's unfair. The bill imposes extraordinarily severe penalties for hosts, making a violation of short-term rental laws a class C felony, while failing to update short-term rental laws that are outdated. By only imposing penalties without providing a means for hosts and property owners to share their homes, this bill will severely, and unfairly, restrict alternative accommodations in Hawaii. Accomodations that 1 in 3 tourists are using to date.

Restricting alternative accommodations could potentially hurt local residents, business owners, and severely damage the state's economy. The livelihoods of thousands of Hawaii residents and hundreds of millions of dollars in revenue for the state are at risk if this bill is approved.

I'm writing because I rent out a room in my home as a bed and breakfast. I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my family and my finances. The people who rent my spare room are not usually tourists! They are usually kamaaina from the mainland, who are visiting for graduations, baby luaus, funerals, class reunions, or adult children helping their kupuna move into retirement homes, or to be here for the birth of a grandchild.

They do not want to stay in Waikiki and they want quiet, friendly, reasonable accomadations. They are thrilled to find my room, and are so pleased that they have this opportunity to stay in their old neighborhoods, and be around lovely local neighborhoods. If I didn't rent out my room to visiting kamaaina, I would not long term rent it anyway. So you see, that I am helping with the demand for non-Waikiki rentals, and am also not taking away from the long term rental markets! I am not contributing to homelessness, as the opposition states. I am satisfying a big need for our own kamaaina visiting, as well as providing my family with the extra income to pay my property taxes, and afford our high cost of living.

I was born and raised in Hawaii, and the money that I make from renting out my extra room, STAYS in Hawaii. I am NOT a mainland investor, who takes their money out of state.

I have a GET and a TAT license and pay all taxes according to the law. I WANT to be licensed. I want regulation, and I want the state to be able to collect taxes for B&B's, because we certainly need the money. I think it is a good idea to let Air BnB collect our taxes, and pay you directly. I know that there are people out there who do not collect the taxes, and that isn't fair to people like me who DO collect taxes. I list my GET and TAT tax number on my internet listing as required. I provide parking on my property. I don't rent to loud people, and I am home all the time. I am a good neighbor, and abide by the rules.

I would like to see a way to license short term rentals. You need to defer this bill and figure out a way to license rentals so that we may be regulated, inspected and abide by all the rules you seek. Give us a chance to show that there is a place for B&B's as well as hotels. I am not taking away any visitors from the hotels! The Star-Advertiser just ran an article that states that hotel occupancy was at an all time high! They don't need any more business! Throw some business our way. And did it ever occur to you that the owners of a majority of the Waikiki hotels are not local? They take their profits elsewhere! I keep my money in Hawaii and spend it here.

Please defer HB2605, HD2. Please concentrate on allowing us to get licenses. And please give priority for licensure to those law abiding citizens who are already paying TAT and GET tax all along! We deserve to be licensed first.

Aloha, Peggy Taylor

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 5:40:50 PM

Testimony for WAM on 4/3/2018 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Castillo	Individual	Oppose	No

Comments:

To Chair Senator Dela Cruz, Vice Chair Senator Keith-Agaran, and the Ways and Means Committee.

I live on the Big Island. We rent a portion of our home for Airbnb to make extra income. I am strongly against "HB 2605, SD1" Please do not harm Hawaii's economy and the alternative accommodations sector of the tourism industry as they seek to secure taxes. If you restrict home sharing it will kill the only viable means of income we have. If you lost it I don't know what we would do to pay the bills. Please don't do this.

Thank you for listening to me.

Ron Castillo

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 7:09:51 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Richardson	Individual	Oppose	No

Comments:

I support the testimony of RBOOA. Please take it into serious consideration. Thank you for your service to Hawaii. Cynthia Richardson

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 8:46:12 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Drew Erickson	Individual	Oppose	No

Comments:

OPPOSITION

HB2605 HD2 SD1

April 2, 2018

Drew Erickson

Aloha Chairs, I appreciate the opportunity to testify in opposition to HB2605 HD2 This Bill, in my opinion, would create an environment of relentless negativity, and I think we would see many online hosting platforms pull out and abandon Hawaii. Thus the state losing out on most if not all vacation rental tax revenue.

The penalty for a Class C Felony is extraordinarily severe and does not in any way fit the crime. This kind of punishment is reserved for sick people in our society that rape and do other disgusting things to others. Renting my extra room out and hosting a family on vacation is not a deplorable act. In fact, it is an act of Aloha, and I believe that is part of what makes the state of Hawaii a very desirable and unique destination. To make it such a crime to host visitors to our island is beyond imagination. It is irresponsible to consider enacting such punishment on the ordinary citizen. Passing a bill like this alone will cause this industry to go further underground and may bring it to its death.

It's approximately 5 billion dollars per year that are at stake for the people of Hawaii. In conclusion passing, this bill would be hurtful and irresponsible.

I ask you to oppose HB2605 HD2 SD1

HB-2605-SD-1

Submitted on: 4/2/2018 8:50:56 PM

Testimony for WAM on 4/3/2018 10:00:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Allison Petterson	Individual	Oppose	No

Comments:

Aloha Chair Dela Cruz and committee members,

Thank you for the opportunity to testify in OPPOSITION of HB2605, HD2, SD1.

While I can appreciate the intent of the bill, it seems the conditions that would be placed on any platform volunteering to act as a tax collector are too onerous. This would result in them not participating and therefore, the state would not realize increased tax revenues.

In addition, the penalties are so severe that it could result in driving the industry further underground. To be penalized under the same classification as a rapist seems rather extreme.

This is a \$5 billion industry that provides jobs & opportunities for Hawaii citizens to keep their homes, keeps support businesses thriving, provides elastic accommodations for growing airlift, and yes, increases tax revenues. All owners and operators should pay their fair share in taxes, but it should be done in conjunction with updating existing land use regulations by the counties.

The issue is complex and will not be resolved with a solution that is so broad and stringent. Perhaps with Lokahi, more collaboration and cooperation, a more harmonious solution can be found. Please oppose HB 2605, HD 2, SD1.

Mahalo!

LATE

HB-2605-SD-1

Submitted on: 4/2/2018 10:14:12 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Shirley	Individual	Oppose	No

Comments:

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, Ways and Means Committee members:

I urge you to remember your Aloha Spirit and your VOTING CONSTITUENTS. It is imperative that you **KILL HB 2605, SD1, once and for all. Whoever thinks GUT & REPLACE is a good option in a democracy does not respect their constituents nor the legislative process.**

The short-term rental industry has long been important to our island's, and the entire state's, economy. The only thing that has changed in recent years is the ease with which local homeowners, like myself, can participate.

As someone who welcomes short-term renters into my own home, I have seen first-hand the benefits of this arrangement--both to the visitors, and to my ability to **afford and keep my home**. Both parties spread the financial benefits around our Big Island community in so many ways--buying supplies, paying cleaners and handymen, purchasing groceries, booking tours, renting cars, and much more. Don't forget--all those store owners and service providers are also HAWAII RESIDENTS who are able to afford their lives--and pay their taxes--as a result of the short-term rental industry. The tiny portion of money kept by the platforms is immaterial in comparison to the monies that arrive, and largely stay, in Hawaii.

Obviously, the dual houses of the legislature have been unable to come to an agreement around reasonable collection of TAT/GET from short-term rentals in this session, nor any previous session.

As a voting constituent and full-time resident in this state, I urge you to step back, create and PASS a bill of SIMPLE LANGUAGE ALLOWING THE PLATFORMS TO COLLECT AND REMIT THE TAT/GET TAXES. PERIOD. No caveats, no regulations, no complications.

The current bill's meddling in zoning, county ordinances and the like, is not, in my opinion, the business of the State (I vote for *local* leaders to deal with these issues). And threatening to turn homeowners into Class-C felons is beyond the pale.

It's time for the State of Hawaii to join the hundreds of other jurisdictions around the world that allow for the short-term rental platforms to simply collect and remit the taxes. Then give a FAIR SHARE of those tax monies back to the counties, and keep the State out of the way of local decision making.

Thank you for your consideration, and for remembering your Aloha Spirit.

John Shirley, FULL-TIME HAWAII RESIDENT AND VOTER
Kailua-Kona, Hawaii Island

HB-2605-SD-1

Submitted on: 4/2/2018 11:20:55 PM

Testimony for WAM on 4/3/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Olson	Individual	Oppose	No

Comments:

Aloha,

I strongly oppose the proposed SD1 for HB2605 as it seems like it will have profound impact on my family and my ability to live on Kauai and raise my 1 year old daughter, in addition to provide for my employees..

It seems fair that the State Legislature should give these counties a chance to make their own laws before trying to enforce state regulation. Specifically (in Kauai), I believe counties should not restrict that Legal Vacation rentals only be restricted to Princeville and Poipu. The County of Kauai should allow a Homestay operation. It is incredibly difficult to survive on Kauai without the ability to share a room or ohana unit. I think it would be a huge mistake to create further laws and penalize locals who are just trying to survive. If you're going to force the collection of taxes, then please open up the ability for others to apply for Transient Vacation Rental (TVR) permits or for Homestay Business Permits. The majority of the permit holders on Kauai are held by people who don't even reside on Kauai....ie) the money is leaving the islands!!

Let those who live on Kauai open their homes to travelers...not just Hotels and wealthy people who move wealth off island. It's not VRBO or Airbnb that are the bad guys here. I urge you to please allow Homestay operation and rethink the legislation.

Mahalo,

Rob Olson
North Shore Kauai

Dear Members of Senate Committees on Ways and Means and Economic Development, Tourism and Technology,

LATE

I strongly oppose bill SB2963.

As it stands right now, Counties are currently working on creating a regulatory framework regarding vacation rentals. The Senate needs to allow them finish their work.

As a local resident, I understand the state's need to collect taxes, I am proud to say that I pay my taxes in full and on time every month. I also understand that there are many out there not doing this and there needs to be a way of enforcing collection.

From all of the meetings I've attended, I understand that the Honolulu City Council and Hawaii County Council are currently working on efforts to address these issues. Honolulu City Council passed four resolutions, and the Mayor has set-up a task force in an attend to create new policies. I believe the other islands are also working on similar issues, individual to their communities' specific needs.

I strongly encourage you all to let us finish our development as it has been started.

I have a good friend in the rental industry. Being an illegal rental (as the majority of short term rentals out here are), she did not want her name disclosed for obvious reasons, but her situation is one case that I am sure represents many others on island. We will call her Jane.

Jane is currently in the rental industry. She helps to manage her family's home out here on Oahu. Her parents use the home about once a month and she rents out to other families in between. Not only is she sharing Hawaii with so many grateful families worldwide, but by doing this, she employ several families from our small community. Jane's housekeeper is a mother that brings her small children with her to work. This woman's family could not survive in Hawaii without rentals like Jane's and this housekeeper cannot afford to put all of her children in daycare to start working in Honolulu doing similar unionized work. Jane is selective in choosing good tenants that do not bother her neighbors or communities. In turn they help our local economies, specifically local vendors like myself. The taxes Jane pays from this income goes on to benefit our schools, roads, and other services the state needs. Without renting out these in between dates, her home would simply sit vacant. It would create no extra jobs or revenue for our community and the State of Hawaii.

Currently it is not possible to get a license or certification to have a short term vacation rental. But as a County, we are working on it. In the meantime, we pay our taxes in full and do what we can to move the work forward.

I fear that this bill will completely shut down the vacation rental industry in the small communities on the island. Not only will this leave many families unemployed, but it will deprive the state of much of the 5 Billion dollars in economic activity Hawaii saw last year. (http://www.hawaiiauthority.org/default/assets/File/JLL%20Report_Impact%20of%20Home%20Rental%20Market%20on%20Hawaii_12-29-2016.pdf).

Again, I understand the need to enforce taxation, but I fear this bill will do more to hurt our local economies than increase Hawaii's collected taxes. **If most of our Island's vacation rental homes are enforced as illegal, there will be far fewer taxes to collect.** Allow us to finish our individual County regulations, rather than shutting our economies down before resolution is reached.

Thank you for your time in reading this, I hope you will consider my testimony when you consider this bill.

Aloha,
Ashley

LATE

HB-2605-SD-1

Submitted on: 4/3/2018 1:48:41 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra L Davis	Individual	Oppose	No

Comments:

Aloha. We are Mark Benson and Sandy Davis, doing business at Lezarde Travel LLC, a Hawaii Company which is a registered corporation in the State of Hawaii. We own a home in Leilani Estates on the Big Island of Hawaii that we purchased in 2012. We plan to retire to the Big Island and live in Leilani, but in the mean time we are renting our home to people who come to the Big Island on vacation. I am contacting you today to express our strong opposition to HB2605 HD2 SD1 which will make it mandatory for vacation rental advertising platforms to become tax collection agents.

Since October, 2012 when we began to allow visitors to Hawaii to use our home for vacations when we are not there, we have always paid our GET and TAT correctly and on time and filed all returns quarterly when due. We are in complete compliance with county zoning requirements.

It seems absurd to us that the State of Hawaii should feel the need to place private companies in the position of enforcing the laws which the state and counties of Hawaii should be enforcing. If this bill is passed, transient vacation rental owners in the State of Hawaii would become the only taxpayers in the United States of America who are required to use a private company to oversee their tax compliance. By putting private companies in between tax payers and the State, this bill puts both parties at risk.

The unintended consequences of passing this bill will have a profound affect on tourism and revenue in the State of Hawaii. We ask you to consider the following points:

--The bill opens the door to fraudulent tax collection agents using fake online platforms to collect money from unsuspecting owners. The bill offers no consumer protection to owners or to travelers.

--The advertising platforms will choose to stop accepting Hawaii advertisers rather than comply with all the onerous requirements. That will lead to a drop in TAT of \$100 million per year.

--The tax collection agents will increase the fees charged to vacation rental owners. Our gross rental income for 2016 was \$10,820.20 and for 2017 was \$4,360.08. We cannot afford to pay any additional fees.

--The state will pay the tax collection agents to collect taxes the State now collects, resulting in a new waste of taxpayer dollars.

We are not sure if this bill is the first step in making vacation rentals a regulated industry in Hawaii or an attempt to ban advertising platforms from accepting advertisements for vacation rentals in Hawaii. If the State wants the vacation rental industry to be a regulated industry, it should pass a bill to have it regulated by a department within the state created for that purpose, and not use private companies as regulators. If the State wants to ban the advertising of private property for rent, that is a clear violation of the freedom of speech and the rights of private property owners. Since we are not Hawaii residents, we cannot vote against those in office, but we can certainly vote with our dollars by choosing to take our property off the vacation rental market completely. We view this bill as an attack on the tourists who provide so much revenue to the state and an attack on non-resident property owners who contribute to the welfare of the islands by paying taxes, providing jobs and investing in growth.

We strongly urge you to vote against HB2605 HD2 SD1.

Mahalo for your consideration of this matter.

Mark Benson and Sandy Davis
Lezarde Travel, LLC, A Hawaii Company

HB-2605-SD-1

Submitted on: 4/3/2018 3:08:17 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel Colabella	Individual	Oppose	No

Comments:

Dear Legislators,

I oppose this bill as written.

Please accept RBOAA's comments as representing my position.

Mahalo

Rachel Colabella

LATE

LATE

HB-2605-SD-1

Submitted on: 4/3/2018 6:51:20 AM
Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Piro	Individual	Oppose	No

Comments:

LATE

HB-2605-SD-1

Submitted on: 4/3/2018 7:07:35 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erik Pegg	Individual	Oppose	No

Comments:

Dear Senators

Thank you for taking the time to resolve Hawaii's ongoing housing issues, however this bill is not the solution. According to the recent Appleseed report on housing numbers, 52% of the vacation rentals are owned by non-Hawaii residents. It would appear that the solution to the short-term rental problem is simple:

1. Permits are only available to Hawaii state residents who are living on the same island as their vacation rental.
2. If a resident has been paying their taxes on their current short term rental then they are allowed to obtain a permit and are given priority.
3. Only so many permits are allowed per community: Ewa Beach, Honolulu, Lanikai, Kailua, etc
4. Short term rentals are permitted in Residential Zoned areas.

We own a short term rental and have been paying taxes. With the exception of one booking which was a group of divers contracting with the Navy, all of our tenants have been young families that would have normally not come to Hawaii as the price for hotel rooms is cost prohibitive. By eliminating short term rentals we are sending a clear message to the world that Hawaii is not a common family destination, it is only a place for wealthy singles or families that have the means to pay for hotels and all the added expenditures (parking, laundry, etc).

This decision to limit short term rentals will have a significant impact on tourism which will be devastating to our economy.

If 52% percent are owned and operated by non-residents then by permitting only residential owned units should free up significant inventory.

We firmly disagree with charging a person with a Class C felony for simply renting their house to travelers. We are not committing a white collar crime or dealing drugs, sexually assaulting people, etc. This is outrageous.

Please take the time to fully read the Appleseed report and not just the snippets of biased headlines. There is a lot of good research and facts in that paper. Here is a link to the article

<https://docs.google.com/viewerng/viewer?url=http://KHNL.images.worldnow.com/library/178b9786-f5d0-4401-b97c-1d05e7138175.pdf>

Thank you for your time,

Sincerely

Erik Pegg

LATE

Dear Ways and Means Committee Members,

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Joni Wiggins	Nick Benoit	Linda Dunham	Nicholas Carson
Amy Anderson	Dale Williams	Alessandro Boracci	Lana Marra
Joseph Jones	Daniel Wilson	Joy Silverman	Margi Kangas
Gail Barron	Johan Holmquist	Dorene Petersen	Robert Farrar
Kevin Hendra	Megan Wolfenden	John Gallagher	Dave & Dixie Mayes
Stephen Wallo	David R.	Anja Kare	Karen Block
Danny Frietas	John Lee	Mitsuo Kyonen	Ethalene Kamila
Juliet Romeo	Phil Barnes	Pin Rose	Henry Kalakawa
Norman Rizk	James McWhinney	Peter Knoblich	John Perez
Jennifer Cox	Mei	Danielle Bates	Derek Reub
Joe Devane	Julia McIntyre	Samantha Broward	Fereshteh Nikbakhsh-Tali
Robert Patey	Kathy Parks	James Webster	Elizabeth Voigt
Keeon Britton	dana hargrove	Chris Haverkamp	Jill Ami

LATE

Darren Flail	Chantel Anongos	Kerri McGovern	Shannon OShea
Pam Thompson	Jeff Porter	James Phillips	Kimberly Tran
Jacquelyn Lang	Timothy Glenn	Linda Ketover	Cindy Chaput
Mele Sheridan	Carole Fall	Gordon Fall	Greg
Alan Wilson	Tom Richardson	Martha Steele	Brian Donnelly
Carol Walters	Suzanne Olson	Darren Kirk	LINDA KREISS
Jerry	Mike Farmer	Amanda Steenman	Doug King
Robert Brown	Monica deBarcza	Jack Maas	Debby deJong
Michelle Ruiz	LUAN NGUYEN	steve harmsen	Othmar Klay
Jacob Teitelbaum	Robert Turchyn	Jeanne Rea	Kathy Camarena
Christopher Clark	Armin Irvani	Pamela Corbin	Michael Dorn
Andre Chabot	William Ouk	Brooklyn Ouk	Harvey Tatsumura
Eliane Lomax	Jan Anderson	Doug Mitchell	Braden Robinson
Ashley Robinson	Lara Robinson	Glen Robinson	Inga Fleischhacker
Brandon Mullenberg	Sam Plancich	Dean Theodore	matt mettalia
Bobby simpson	Mary chow	William Gannet	Greg Lindley
Ale Xi	Lisa Taylor	susan patner	Michael Mathes
Michael Mathes	Greg Gerard	Keli Donnelly	Lois Cox
George Heliligman	Mark Sutton	Alan Kornicks	Debra Sorensen
Trevor Alt	Laurence Crim	Michele Hansen	Marla Cecil
Patricia Oxford	Wendy Monaghan	Dedee Adams	Max Bassler
simon zemel	Nicholas Cecil	Mike Cole	John Zihla
Lynda Corotan	Mark Petritz	JOSHUA DESILVA	Elyse Lewin
Sela Rogers	Carol Carolan	Susan fereira	Dennis Shearer

LATE

Cody Comfort	Lee Prochaska	Connie Krupp	Larry. Krupp
Sheryl Ashcraft	Andrew Sclar	Jodi Nehring	M. Ryan Henline
Mounque Barazone	Betsy Merritt	Dale Carlson	Katie Minkus
Ivar Pedersen	Martha Martin	Billie Martines	Vicki & William T. Cobb
Kim Orszag	Colin Lau	Harry Nakamura	Steven Roth

LATE

Dear Ways and Means Committee Members,

I am an expert real estate investor and agent. I own and operate a vacation rental and I'm worried about the impact on the local economies and the tax issues of the proposed SD1 for HB2605, HD2.

Many owners of my condo complex are only able to support their ownership with the aid of rental income. This also impacts the tourist economy as condo stays are more family affordable than hotels and thus restrictions effectively subsidize hotels at the expense of private ownership which invested in Hawaii under one set of rules which are in jeopardy of changing without their representation being given the weight deserved by their contribution to the local economies. There are many fine people with whom I am now friends all of whom bring the aloha spirit to the hospitality industry. Many comments about my rental and the wonderful stay are contributors to the tourism base which is the largest economic force supporting local economies.

Additionally, as an experienced real estate investor and sales agent formerly licensed in Hawaii, I can testify with absolute certainty that the affect on property values, especially in an era of rising rates, will be devastating. many owners will have to sell properties and or lose them in foreclosure which will kill property values as well as lessen the tax revenues they generate. This is truly a case of if it ain't broke, don't fix it!

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. One size will not fit all throughout the various islands each of which has its own micro economies and diversity.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Regards,
Alan Harris

LATE

I'm writing in opposition to HB2605.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Joanne Allen

LATE

Dear Ways and Means Committee Members,

I can hardly believe a state facing UNFUNDED LIABILITIES in the neighborhood of \$35 BILLION DOLLARS (<http://www.grassrootinstitute.org/2017/01/state-pension-debt-rises-to-12-billion-but-the-real-debt-is-even-bigger/>) with a possible adjusted value being even higher is CONSIDERING LOSING A FUNDING SOURCE INSTEAD OF MANAGING THE RESOURCE.

I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,
Jackie

Regards,
Jackie Kerner

LATE

Dear Ways and Means Committee Members,

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me. We are fully compliant with all zoning laws, and collect and submit TAT and GET as required. And we reside in Hawaii County, where our property is located.

First based on my experience with them, I have no confidence in ability of a "booking platform" such as HomeAway or Airbnb to accurately collect and remit taxes. If that becomes the State's preferred approach then please make them fully accountable. Provisions which make owners also responsible should be eliminated.

Second, I have heard the penalties for non-compliance with tax and zoning laws could involve prison time. This is excessive.

Third, I have also heard sections of the proposed statute would, if passed, be non-compliant with Federal law. We should even be considering such legislation. To the extent that is true, please be sure the draft is sufficiently revised or the problematic sections struck.

I am in favor of reasonable regulation. HB2605 SD1 is not that as currently drafted. The main issue seems to be helping the Counties get their hands around what vacation rentals are present now and they are operating consistent with zoning, and developing an ability to cause a non-compliant vacation rental to cease. I believe that can be accomplished with funding to support County-level staffing, in support of processes the Counties already have in place or are working to implement. Please focus on that.

It seems to me tax compliance will rise dramatically if just those two capabilities are in place. Neither of those require excessive penalties, burdening booking platforms with tasks they are ill-equipped to perform, or illegal sharing of owner/operator personal information.

With warm aloha,
Larry Wagner

Regards,
Larry Wagner

LATE

Good Morning,

The vacation rental industry is here to stay, World-wide. This is how families want to travel. Experience the culture, live like a local, have room to enjoy each others company rather than sitting on a hotel room bed or running in between multiple rooms.

Hawaii is a TOURIST DESTINATION. Yes, we all live here too, but there is lots of money to be made by sharing our homes. The City and County of Honolulu makes money, the State makes money, homeowners make money, housekeepers make money, chefs make money, masseuses make money, gardeners and pool maintenance people make money. There is very little down side to this industry, Homes come with off street parking, same impact as a homeowner. Majority of renters are extended families here for a quiet family holiday.

It is ridiculous to stay these vacation rental homes are impacting long term inventory for locals. These 2nd homes would sit empty! Locals cannot afford to live in a multi million dollar beach home. Why not have short term tenants helping with upkeep on homes, spending money in our stores and restaurants. Yes, Vacations spend a lot of money here!

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

The only State legislation acceptable is one ALLOWING homeowners across all Islands to vacation rent their properties with a valid permit. And the State will reap all the tax benefits from the homeowners, vendors and guests coming to visit our lovely island.

Please wake up and join an industry that is not going to disappear with legislation. Be a part of the future not a part of the problem.

Aloha,

Robin Lloyd

LATE

Dear Ways and Means Committee Members,

Aloha. We are Mark Benson and Sandy Davis, doing business at Lezarde Travel LLC, a Hawaii Company which is a registered corporation in the State of Hawaii. We own a home in Leilani Estates on the Big Island of Hawaii that we purchased in 2012. We plan to retire to the Big Island and live in Leilani, but in the mean time we are renting our home to people who come to the Big Island on vacation. I am contacting you today to express our strong opposition to HB2605 HD2 SD1 which will make it mandatory for vacation rental advertising platforms to become tax collection agents.

Since October, 2012 when we began to allow visitors to Hawaii to use our home for vacations when we are not there, we have always paid our GET and TAT correctly and on time and filed all returns quarterly when due. We are in complete compliance with county zoning requirements.

It seems absurd to us that the State of Hawaii should feel the need to place private companies in the position of enforcing the laws which the state and counties of Hawaii should be enforcing. If this bill is passed, transient vacation rental owners in the State of Hawaii would become the only taxpayers in the United States of America who are required to use a private company to oversee their tax compliance. By putting private companies in between tax payers and the State, this bill puts both parties at risk.

The unintended consequences of passing this bill will have a profound affect on tourism and revenue in the State of Hawaii. We ask you to consider the following points:

--The bill opens the door to fraudulent tax collection agents using fake online platforms to collect money from unsuspecting owners. The bill offers no consumer protection to owners or to travelers.

--The advertising platforms will choose to stop accepting Hawaii advertisers rather than comply with all the onerous requirements. That will lead to a drop in TAT of \$100 million per year.

--The tax collection agents will increase the fees charged to vacation rental owners. Our gross rental income for 2016 was \$10,820.20 and for 2017 was \$4,360.08. We cannot afford to pay any additional fees.

--The state will pay the tax collection agents to collect taxes the State now collects, resulting in a new waste of taxpayer dollars.

We are not sure if this bill is the first step in making vacation rentals a regulated industry in Hawaii or an attempt to ban advertising platforms from accepting advertisements for vacation rentals in Hawaii. If the State wants the vacation rental industry to be a regulated industry, it should pass a bill to have it regulated by a department within the state created for that purpose, and not use private companies as regulators. If the State wants to ban the advertising of private property for rent, that is a clear violation of the freedom of speech and the rights of private property owners. Since we are not Hawaii residents, we cannot vote against those in office, but we can certainly vote with our dollars by choosing to take our property off the vacation rental market completely. We view this bill as an attack on the tourists who provide so much revenue to the state and an attack on non-resident property owners who contribute to the welfare of the islands by paying taxes, providing jobs and investing in growth.

We strongly urge you to vote against HB2605 HD2 SD1.

Mahalo for your consideration of this matter.

Mark Benson and Sandy Davis
Lezarde Travel, LLC, A Hawaii Company

Regards,
Sandy Davis

LATE

Dear Ways and Means Committee Members,

I no like HB2605 HD2, SD1. Dismiss this as a rubbish bill inflicting us local kine with hardship.

If you were in my district I not kind like you elected for sure.

off with you,
Jake

Regards,
Jake Kuameka

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies. This issue should be handled at the county level. The vacation rental issue is not going away. Each county should come up with laws that fit their particular issues.

It seems to me that the State Legislature should give these counties a chance to “get their act together”, before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,
Susy kuehner

LATE

LATE

Dear Ways and Means Committee Members,

I oppose Opposition to HB2605 HD2. Do not know what you guys are trying to pull here but we have had a enough of all this scrutiny to allow people to make a living. It difficult living here and with you democrats just taxing us to death what more do you want!!

Stop it,
Fuller

Regards,
Gabriel Fuller

Kailua, HI 96734

LATE

Hello,

I only ran a vacay rental for three months, while I could not get a long time renter that was acceptable in my Makiki apt. I had a 33 day renter here starting a new job, then a pair of parents to visit their daughter from UH while their new grand daughter started pre-school for about two weeks. I then found a great couple to rent for a year. But if I had to go without that support for several months I would have been financially ready for bankruptcy. A new Hawaii citizen / tax payer got a good start, and a family spent short lived times with a granddaughter.

The proposed SD1 that promotes heavy penalties on owners and brokers of “unpermitted” vacation rentals is really infringing on our rights as property owner, and individual rights. While limiting access to these types of travelers! The wording of this bill sounds abrasive, and against our own Federal Statutes.

I’m for reasonable regulation, and while I have been monitoring this issue lately, it is my understanding that both Hawaii County and the City and County of Honolulu have been dissecting the issue with consideration; why are you jumping in without their insight as a guide.

I would like to see, even though I don’t have much faith, in the City and County and their viewpoint on this issue and this bill: please defer HB2605, HD2.

Aloha,

Mark Roberts ‘Sparky’

LATE

Dear Ways and Means Committee Members,

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

I have low rent for my tenants but it does not cover very high property taxes, insurance, maintenance, replacement of utilities, etc. My tenants are disabled and I have not raised their rent in 12 years. I live in an area where there are no hotels in a country like setting so the tourist appreciates private homes to enjoy themselves. Most of the people living in my area are doing vacation rentals because the property value was overpriced and the tourist helps to boost the economy for this laid back area. We are all very hard working people and want better life for ourselves. The government actually got more money from my business than if they totally disband this kind of industry. Money, Money, Money, is what you want, you will have it.

Leave free enterprise alone.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Regards,
Kei Wilson

LATE

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my

ability to pay my mortgage and real property taxes.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Normadeene K. Musick

LATE

I'm writing because I rent out a room in my home as a bed and breakfast. I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my family and my finances. The people who rent my spare room are not usually tourists! They are usually kamaaina from the mainland, who are visiting for graduations, baby luaus, funerals, class reunions, or adult children helping their kupuna move into retirement homes, or to be here for the birth of a grandchild.

They do not want to stay in Waikiki and they want quiet, friendly, reasonable accommodations. They are thrilled to find my room, and are so pleased that they have this opportunity to stay in their old neighborhoods, and be around lovely local neighborhoods. If I didn't rent out my room to visiting kamaaina, I would not long term rent it anyway. So you see, that I am helping with the demand for non-Waikiki rentals, and am also not taking away from the long term rental markets! I am not contributing to homelessness, as the opposition states. I am satisfying a big need for our own kamaaina visiting, as well as providing my family with the extra income to pay my property taxes, and afford our high cost of living.

I was born and raised in Hawaii, and the money that I make from renting out my extra room, STAYS in Hawaii. I am NOT a mainland investor, who takes their money out of state.

I have a GET and a TAT license and pay all taxes according to the law. I WANT to be licensed. I want regulation, and I want the state to be able to collect taxes for B&B's, because we certainly need the money. I think it is a good idea to let Air BnB collect our taxes, and pay you directly. I know that there are people out there who do not collect the taxes, and that isn't fair to people like me who DO collect taxes. I list my GET and TAT tax number on my internet listing as required. I provide parking on my property. I don't rent to loud people, and I am home all the time. I am a good neighbor, and abide by the rules.

I would like to see a way to license short term rentals. You need to defer this bill and figure out a way to license rentals so that we may be regulated, inspected and abide by all the rules you seek. Give us a chance to show that there is a place for B&B's as well as hotels. I am not taking away any visitors from the hotels! The Star-Advertiser just ran an article that states that hotel occupancy was at an all time high! They don't need any more business! Throw some business our way. And did it ever occur to you that the owners of a majority of the Waikiki hotels are not local? They take their profits elsewhere! I keep my money in Hawaii and spend it here.

Please defer HB2605, HD2. Please concentrate on allowing us to get licenses. And please give priority for licensure to those law abiding citizens who are already paying TAT and GET tax all along! We deserve to be licensed first.

Aloha, Peggy Taylor

To Whom It May Concern:

LATE

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

The proposed SD1 may be in violation of federal statues and therefore please consider carefully the repercussions for such a proposal. I also understand that each individual county is working on finding solutions that meet the needs of their individual communities. I would be in favor of allowing each county to decide what regulations work best for their community needs.

I am very much in favor of appropriate penalties for those individuals who are trying to avoid paying taxes on their income from their vacation rentals however I also believe that the more difficult it is for people to rent their properties, the more likely people will not put forth the effort to do the right thing and comply with the regulations. Regulations should be simple to understand and easy to comply with to support the tourism industry that is such a major component of Hawaii's economic well being.

From my own experience, as a new homeowner who has successfully rented properties in other states for almost 20 years, I found the process of becoming a vacation rental in Hawaii extremely arduous with no clear source on what rules to follow, what taxes to pay nor who to contact for questions. I eventually called every office I could locate and chose to follow the most strict rules that were told to me (because many rules were contradicting) by our real estate agent, our property manager, our complex AOAO, our community HOA, and whatever tax offices I could find that answered the phone for questions. There were even several articles on different websites (usually real estate agents) that I tried to follow too but some were very old.

Indeed a change is necessary - one that supports the business owner/vacation rental owner to easily understand and comply with the necessary regulations for becoming a vacation rental so that the tourism industry and all those who work within it will continue to thrive in the state of Hawaii.

Please defer HB2605, HD2 to allow individual counties to come up with the best regulations to fit their needs and encourage counties to do so in a manner that will not create a hurdle for the tourism business and hurt families that rely on the industry for their living, but make it easy, simple with a single point of information that covers all the necessary steps and requirements to become a vacation rental.

Thank you,
Tracey Souverein

LATE

Dear Ways and Means Committee Members,

I'm writing because I own rent my place as a vacation rental and also use it when I come to the island, and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on me, my family and the local people who have jobs because of the rental. I lived in it for over ten years and it has been in my family for almost 40 years.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Tourism is vital to Oahu's existence. I don't understand why the government doesn't make rentals obtain an annual permit and use these funds to help subsidize housing for those that need it. Most pay taxes and it would be a win-win. Most rentals employ numerous local residents and I believe it would have a negative impact on the economy. I don't think the big picture is being looked at. Thank you for listening

Aloha,
The McGoverns

Regards,
Michael McGovern

LATE

Dear Ways & Means Committee,

I am writing because my husband and I are depending on the income from our vacation rental to supplement social security when we retire in the near future. My husband is 75 and I am 65 and we would like to retire soon, we both have been working since we were 15 years old, however it would be difficult without the income from the vacation rental. We just started the vacation rental in 2018. I would like to get a permit but none are being issued. The rental is in a beach area, steps to the ocean and **not** in an affordable rental area. We would like to leave some property to our children who were also born and grew up on Oahu. We are residents and own a home in the same community that the rental is in. We have mortgages on both properties.

The guests that stay in the rental contribute to our economy and spend money in the community. They prefer staying where locals live to experience the Hawaiian culture. The hotels are full most of the time and this gives them an option. The guests are respectful and appreciate the experience and have been good stewards to our environment. I check with my neighbors regularly and they enjoy meeting the visitors and have no complaints.

I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my my business, my family and those that provide services. The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes. I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse. It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, **so I ask you to please defer HB2605, HD2.**

Mahalo for your consideration.

Malulani

LATE

Dear Ways and Means Committee Members,

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Our financial health and the wellbeing of our many dependents relies on our ability to rent a portion of our house out and maximize the opportunity. We care deeply about Hawaii, the aina and the people. We consciously support local businesses, the local economy and local people. We were not born into the type of privilege that most people in this neighborhood were. However, we understand the profound kuleana to give back to our community. We intend to pay it forward and instill that responsibility in our children. Our greatest desire is to coexist in harmony with our neighbors, our society and the global community. We strive to LIVE ALOHA and share aloha with everyone we meet. We are kind, peaceful and responsible people and parents. We try to role model what we hope will produce another kind, open minded, adaptable, peaceful and responsible generation. We pay all of our taxes, donate money and time to multiple organizations including Punahou school, Punahou's financial aid department and we both serve on the PFA (parent faculty association) as donors and active room parents. We donate time, money and love to Sacred Hearts Academy, the public school system, , Manoa Valley Church, Cavalry by the Sea in Aina Haina and are part of the St. Louis Heights neighborhood watch.

In this complicated world filled with real problems and terrifying false alarms, we are called to accept and care for each other as brothers and sisters and children of mother earth.

Aloha,

Regards,
Glen Robinson

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

LATE

Chair Senator Dela Cruz, and honorable members of the Ways & Means Committee:

My name is Mark Hagadone and I am testifying **in opposition** to HB2605 HD2 Relating to Transient Accommodations.

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, my mortgage and our property taxes. I was raised in the islands and we all know how difficult it can be to make ends meet on a fixed income. This is especially important since I am 66 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 deliberately utilize "on-property" parking and are always present onsite during our rentals. Our unit uses **LESS** City and COUNTY infrastructure, water, sewage, electricity and on-street resources than a traditional long term rental. Our guests are well mannered and world class travelers interested in contributing and participating in our local communities to experience the **ALOHA** of our residents. They utilize the local economy, the stores, the shops and the shopping malls and warehouses while visiting our beautiful and vibrant community. They have an opportunity to really see the human and aloha side of Honolulu, and speak highly of it when they leave, promoting our travel industry. It is a positive win/ win, sustainable situation which works for all parties both local and overseas.

The revenue generated from this immerging industry can help the State to meet its budget shortfall and ensure everyone in this vibrant industry is allowed to share the ALOHA Hawaii has to offer all visitors to the Islands. It is much less sterile than the typical Hotel stay in downtown Waikiki, and our new class of visitors know this!. The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. This is NOT how to stimulate and encourage sharing, community, economy and aloha for our Islands. I also question whether or not this Bill is in violation of several Federal Statutes which govern sharing of private and confidential information.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the same key issues highlighted in the proposed HB2605. I am advocating **deferring** this Bill to allow the City and County Honolulu and the Hawaii County to update their regulations first to harmonize the legislative efforts in an attempt to avoid unintended consequences of multiple, disjointed approaches to the same issues.

I urge you to STOP HB2605, HD2 and **DEFER** this bill in this committee at this time.

Thank you for taking the time to consider my testimony, I know that in this election year, your position on this Bill will make a significant impact on our local community.

Aloha

Mark R. Hagadone

LATE

Dear Ways and Means Committee Members,

I'm writing as the owner and operator of a vacation rental to oppose SD1 for HB2605, HD2. I favor reasonable regulation and fair taxation, but I'm concerned that this measure would restrict vacation rentals in ways harmful to responsible owners, to travelers, and to the state's tourist industry. I'm also concerned that it may violate several federal statutes.

Please give Hawai'i counties a chance to address problems with transient vacation rentals in their own jurisdictions, as I understand they're working to do. I ask that you defer HB2605, HD2.

Aloha,
Jana Argersinger

LATE

Dear Ways and Means Committee Members,

I strongly oppose HB2605. This bill is clearly written with the goal of eliminating transient vacation rentals which are vital to our communities. It will crush the tourism industry in more remote areas of the islands, take away valuable jobs, and reduce the amount of tax revenue generated for the state and counties.

TVRs are essential to our communities: I live in Volcano, a small town which has only a few “hotel-style” accommodations, all easily over \$200 a night. Volcano National Park has over 2 million visitors a year. Without transient vacation rentals, these visitors would stay for a few hours, then leave. The next closest hotels are over 40 minutes away in Hilo. Restaurants would close. Stores would close. Cleaners and maintenance people would have to commute long distances, and still make less per hour. Volcano is a vibrant community. There are vacation rentals, but also families, retirees, and artists. Many of our residents are able to live here BECAUSE of vacation rentals. A 2015 study showed that 66% of Hawaii-based TVR owners require that income to pay their monthly bills. Jobs associated with vacation rentals pay far more than minimum wage. Would Target pay \$20 an hour to have their toilets washed? Probably not.

This will not fix housing: If you are attempting to address the long term housing market, this is not the way. Do something about landlord tenant laws and make it more economically attractive for owners to rent their homes long-term.

Many short term accommodations, especially those that cater to young and budget-conscious travelers, are not meant for long term living. If I could not run my vacation rentals, they would sit empty or possibly be sold — most likely to someone off-island who would only visit a few weeks a year. These off-island empty-house owners would NOT pay state taxes and would not contribute significantly to our economy. Like the former short term rentals on Kauai, our neighborhoods would become empty shells and businesses would close.

This law is overreaching: I run my own business, but if I did hire a company to help me, it should not be their responsibility to make sure I pay my taxes. I am the business owner and tax payer. The state and county should come to me if there is a question. There are already rules regarding privacy and information sharing that apply to ALL businesses, regardless of the type of business. By singling out TVRs, HB2605 is depriving transient accommodation operators of rights provided to other taxpayers and establishing a frightening new precedent.

Hawaii Island brings in a considerable amount of money via TAT and GET, and would bring in even more if current laws were enforced. Receiving our fair

share of that tax revenue should not be contingent on taking away livelihoods. This is a ridiculous law that would only hurt our community and benefit big businesses and those with a vendetta against their neighbors.

Again, I am adamantly opposed to HB2605. Please do the right thing and oppose this job killing law.

Regards,
Lucretia Worster

Dear Lawmakers,

LATE

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me, including housekeeping staff and handyman help. Our rental properties are only located in Waikiki, which is a resort area. We pay our TAT and GET, and the state collects our taxes. I strongly urge you to consider legislation to support short-term rentals in Waikiki. Our condo is in a building that had been classified as for "hotel-use" and we are able to rent to families who would otherwise not be able to visit Hawaii with grandparents, and cook meals in their rental unit.

The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse.

It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2.

Aloha,

Jim Kohara

LATE

I'm totally against government telling me how long I can rent my place out for. As long as my home is being used as a residence then I should be able to choose how and when I rent it out.

Home sharing has allowed me to spend so much more time with my kids that there's no way I'm giving it up.

Aloha,

Francisco

LATE

I have live in Hawaii Kai for over nine years and then needed to move to the mainland for work and economic reasons. I can not afford to live in Hawaii now but hope to return one day . I bought a condo on Maui as a way in which to return back to Hawaii in the future. I was am still am a major volunteer and contributor to the well being of the people and lands of Hawaii. It seems that things are changing that really create more problems than good.

I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me. The proposed SD1 would restrict the use of properties as vacation rentals, require brokers to share personal owner information with State and County agencies and increase penalties on owners and brokers of unpermitted vacation rentals. I also question whether or not it is in violation of several Federal Statutes. I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with some of the key issues highlighted in the proposed SD1. Why not wait to see what kind they come up with before trying to wade in. It seems that this bill is trying to put the cart before the horse. It seems to me that the State Legislature should give these counties a chance to "get their act together", before muddying the waters with State regulation, so I ask you to please defer HB2605, HD2. Aloha,

A Gerard Federico

LATE

Dear Ways and Means Committee Members,

I love the Big Island and it took many years of saving before I could find a place that we could afford. I'm writing because I own and operate a vacation rental and I'm worried about the impact proposed SD1 for HB2605, HD2 will have on my business, my family and those who work for me.

Please consider all of the positive aspects. We are a contributing part of the community and will have to move away if you pass a bill listing only certain areas as vacation rental friendly.

The proposed SD1 would hurt and cast away ohana that you be sad to see forced away from their homes.

I'm all for reasonable regulation and appropriate penalties, and it is my understanding that both Hawaii County and the City and County of Honolulu are moving to update their regulations in an effort to deal with the problems fairly. Why not wait to hear what they say?

please defer HB2605, HD2 and give them a chance.

Aloha,
Neil

Regards,
Neil cormie

From: [Debra Hoffman](#)
To: [WAM Testimony](#)
Subject: Protect Short-Term Rentals In Our Community
Date: Monday, April 2, 2018 10:02:22 AM

Dear Ways and Means Committee Members,

Stop the illegal and unsafe vacation rentals from infiltrating our neighborhoods where residents live!

They are not paying the taxes & undercutting the legal vacation rentals that are following the rules. The vacation rental sites are sending mass emails to fight this so they can profit from the illegal rentals, don't listen to them. There are 2 illegal rentals just within a block of our home. Extra cars, noise less parking for residents who pay their property taxes! Please listen to Hawaii residents concerns.

From, a 25 year resident and tax paying property owner.

Regards,
Debra Hoffman
1312 Kilou St
Wailuku, HI 96793

From: [Martha Martin](#)
To: [WAM Testimony](#)
Subject: Protect Short-Term Rentals In Our Community
Date: Monday, April 2, 2018 10:07:52 AM



Dear Ways and Means Committee Members,

I support this legislation.

VRBO/Home Away has notified me of HB2605, HD2, SD1. My husband and I are trustees for a LEGAL short term rental at Maui Kamaole, 2777 S. Kihei Rd. I-115, Kihei, HI.

VRBO wants me to oppose this bill, however I SUPPORT of all parts of it.

We have felt like fools for our compliance with all short term vacation rental laws -- for 17 years --while others are not held to account for milking the system and destroying neighborhoods.

Please rectify this.

Might you use the currently uncollected RE and rental taxes to provide affordable housing for citizens of Hawaii?

Mahalo!

Regards,
Martha Martin
105 W Onwentsia Rd
Lake Forest, IL 60045

From: [Steve Nadalin](#)
To: [WAM Testimony](#)
Subject: Protect Short-Term Rentals In Our Community
Date: Monday, April 2, 2018 3:39:20 PM



Dear Ways and Means Committee Members,

I'm writing because I am 67 years old and rent a room in my house as a vacation rental to pay for my daughters college education. My wife and I live in the house as well.

The proposed SD1 would restrict the use of properties as vacation rentals and make it impossible for me to assist my daughter with her education.

Aloha,

Steve Nadalin

Regards,
Steve Nadalin
545 Kumukahi Pl
Honolulu, HI 96825