

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

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

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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

WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 419, H.D. 1

**February 20, 2019
4:00 p.m.
Room 308**

RELATING TO TRANSIENT ACCOMMODATIONS

House Bill No. 419, H.D. 1, provides that a county shall be eligible to receive \$1.0 million from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. This measure also allocates \$4.0 million from transient accommodations tax (TAT) revenues (\$1.0 million per county) to implement this measure.

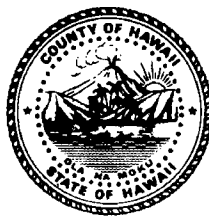
The Department of Budget and Finance (B&F) offers the following comments. First, this measure requires the Governor to instruct the Director of Finance to review whether a county's compliance with the specified conditions is satisfactory within 30 days of receiving written notification from the mayor of a county. B&F does not have the expertise to conduct a comprehensive review to determine if a county's efforts to fulfill the specified conditions are "satisfactory" and to specify actions that a county must take to achieve "satisfactory" compliance, if necessary. B&F understands that the intent is for it only to determine that the county has performed certain functions. Thus, we

recommend removal of the term “satisfactory.” There is no deadline for a county to submit their written notification; thus, B&F may not have sufficient time to conduct a review should a county submit their notification late in the fiscal year.

With regards to the \$4.0 million allocation to the counties, our understanding is that this is a one-time allocation.

Thank you for your consideration of our comments.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
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February 19, 2019

Representative Sylvia Luke, Chair
Committee on Finance

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

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

RE: HB 419, HD1 Relating to TAT

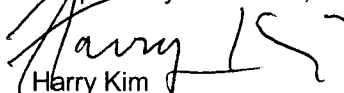
Thank you for this opportunity to comment on HB 419, HD1, offering the counties \$1M each to enforce "all applicable laws and ordinances relating to transient accommodations."

We appreciate the motivation behind this bill, which is to provide the counties with needed support in our efforts to contain the growing conversion of residential dwellings into commercial short term vacation rentals. We also appreciate the changes that have been made from last year's bill (HB 2605). Moreover, given our county's financial difficulties, it is hard not to support an opportunity to acquire \$1M.

However, the bill raises a number of concerns:

1. Hawai'i County does not yet have a special property tax class for short-term vacation rentals. Although we intend to propose such a class hopefully by the end of this year, the class cannot be created for FY 2020-- it will be for FY 2021. We may set a rate in FY 2020, but it won't be effective until 2021. We request additional time beyond December 31, 2019 to establish a property tax rate for short-term vacation rentals.
2. The requirement to "collect all applicable taxes" could be misleading to include TAT and GET, which are collected by the State. If the intent is limited to property taxes, then the requirement should cross-reference paragraph (1) in the bill.
3. The reference to "special permits" could be misleading. Special permits are only for agricultural land. Generally, the State Land Use Commission has also held the position that overnight accommodations are not permitted on agricultural land. Instead, we suggest replacing reference to "special permits" with a more general mandate to "register or approve".
4. There are standard appeal procedures for zoning decisions. An appeal of a director's decision goes to the Board of Appeals. An appeal of a contested case (Board of Appeals or Planning Commission) goes to Third Circuit Court, where we have no control over the timelines. There should not be special expedited procedures just for short-term vacation rentals. We would prefer to delete this requirement.

Respectfully Submitted,


Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Pay Counties for TVR Enforcement

BILL NUMBER: HB 419, HD-1

INTRODUCED BY: House Committee on Tourism & International Affairs

EXECUTIVE SUMMARY: Provides that a county shall be eligible to receive funds from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. Makes an allocation from TAT revenues.

SYNOPSIS: Provides that a county may receive \$1 million for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations and short-term vacation rentals. The county must first, however, (1) establish a real property tax rate that applies only to such uses; (2) develop a process to issue special use permits to (and collect all applicable taxes from) property owners for such uses; (3) establish a registry to track compliance by, and any complaints concerning, special use permittees; (4) establish an expedited process to address alleged violations by permittees; (5) establish an appeal process for parties denied a special use permit; and (6) enact ordinances that implement (1) through (5). Budget & Finance is tasked with administering this system.

Requires reports from counties receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances.

EFFECTIVE DATE: July 1, 2099.

STAFF COMMENTS: This bill deals with transient vacation rental (TVR) activity. Some property owners figured out that they could help make ends meet by renting their space, or part of it, to tourists, and were aided in their efforts by platform companies such as AirBnB, VRBO, and Flipkey. The platform companies realized that general excise and transient accommodations taxes were due on such rentals and offered to collect these taxes and pay them over to the State, thinking that tax compliance among TVR owners was, let's say, not widespread.

The bill resulting from those efforts, HB 1850 (2016), passed the Legislature, which was motivated by the prospect of increasing tax compliance and collecting lost revenue. However, the bill was vetoed by Governor Ige, citing objections from the counties that many of the TVRs violated county zoning laws (even though the platform demanded and got representations from the owners that they were in compliance). Legislative efforts to resurrect the "AirBnB bill," as it was called, focused around trying to force the platform companies to suppress any TVR advertising unless the owner could prove compliance with county zoning laws. The owners pointed out that the counties often didn't enforce the laws and had no processes in place for certifying to any owner that the owner's property was compliant with county laws. The counties

Re: HB 419, HD-1
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responded with all-too-familiar excuses of being resource constrained. This bill proposes to break the logjam.

Digested 2/16/2019



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of

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

Committee on Finance
February 20, 2019

House Bill 419 HD1: Relating to Transient Accommodations

Chair Luke and members of the House Committee on Finance, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers — **supports** House Bill 419 HD1 which seeks to provide each county with \$1,000,000 from the State for the purpose of enforcing all applicable laws and ordinances relating to transient vacation rentals, provided that the counties meet certain requirements in the regulation and enforcement of the short term online rental market.

We have long been a strong advocate of a comprehensive solution to the regulation of transient vacation rentals, with the goal of creating parity between the traditional brick-and-mortar hotel industry and the short-term online rental market, as well as addressing the growing concerns from our working class and our communities. We understand that this is a multi-faceted issue and that there needs to be legislation and cooperation at both the State and County levels.

The HLTA supports House Bill 419, which would provide financial assistance to the county governments to enforce land use and zoning laws. These past couple years, our association has been advocating on the county fronts to support legislation that addresses enforcement of zoning and permitting of transient vacation rentals as well as the levying of hefty fines. Through our discussions at the county councils, we are seeing both movement, progress, and in some cases established legislation that has begun addressing the concerns surrounding illegal TVRs.

While the conditions the counties must meet, as set forth in this measure, may seem daunting, state support for the county governments should provide an added incentive to address a long-standing problem and perhaps expedite the development of a permanent solution.

Mahalo.

HB-419-HD-1

Submitted on: 2/19/2019 10:47:30 AM

Testimony for FIN on 2/20/2019 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Donoho	Kohala Coast Resort Association	Support	No

Comments:



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

HB 419 HD 1

Relating To Transient Accommodations

COMMITTEE ON FINANCE

Wednesday, February 20, 2019, 4:00 pm

Conference Room 308

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 195 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **in support of HB419 HD1**, which provides that a county shall be eligible to receive funds from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, provided that no funds shall be released to a county until it has satisfactorily complied with specified conditions. Makes an allocation from TAT revenues. Requires reports from counties receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances.

MHLA is in support of establishing a level playing field for all visitor accommodations. There are alternative accommodations in the Hawaiian Islands competing with hotels, resorts, timeshares, and bed-and-breakfasts, with many them likely avoiding the 10.25 percent transient accommodations and general excise taxes. This Bill would help Maui County with funding for its enforcement.

Maui County has already made significant strides in cracking down on illegal vacation rentals, including the hiring of a firm to research/locate illegal operators and levying stiffer fines. Additional funding from the State would aid greatly in our enforcement efforts.

Thank you for the opportunity to testify.



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

Stacelynn K.M. Eli
Cedric Asuega Gates
Troy N. Hashimoto
Daniel Holt
Lisa Kitagawa
Bertrand Kobayashi
Scot Z. Matayoshi

Nadine K. Nakamura
Scott Y. Nishimoto
Chris Todd
Tina Wildberger
Kyle T. Yamashita
Bob McDermott

Wednesday, February 20th, 2019 4:00pm
Conference Room 308

TESTIMONY ON BEHALF OF AIRBNB RE: HB 419, HD1

Dear Chair, Vice-Chair, and Members of the Committees:

Airbnb is committed to being a long-term partner with the State of Hawaii, and that is why as a company we have tried to work closely with both state and local leaders to develop fair common sense local rules to regulate home sharing and vacation rentals.

As it has become increasingly clear alternative accommodations are playing an increasingly vital role in Hawaii's visitor industry as more guests travel to the islands and hotel occupancy rates are near max capacity. According to a recent study of the impact of alternative accommodations showed that the rentals just on Oahu generated more than \$2B in economic impact for the state and supported more than 12,000 jobs. At the same time, as a company, we have engaged with local leaders to find ways to address concerns about the impact of alternative accommodations on local neighborhoods while protecting the right of property owners to share their homes. Renting out their home helps many local residents deal with the high cost of living in Hawaii.

We support efforts in Hawaii at the state, and particularly at the county level, to update its laws concerning alternative accommodations in order to adapt to today's marketplace while putting in place fair laws that will protect housing stock and neighborhood integrity. We worked closely with Hawaii County leaders on the development of Bill 108, and have been working with Honolulu County leaders to craft the first new laws on TVUs since 1989. We look forward to continuing to work with leaders and the community throughout Hawaii to accomplish these goals.

Regards,

A handwritten signature in black ink, appearing to read 'Matt Middlebrook', with a long horizontal flourish extending to the right.

Matt Middlebrook
Head of Public Policy
Hawaii



The House of Representatives
The Thirtieth Legislature
Regular Session of 2019

To: Committee on Finance

Date: February 20, 2019

Place: Conference Room 308
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: HB Bill 419 H.D. 1, Relating to Transient Accommodations

Chair Sylvia Luke, Vice Chair Ty J.K. Cullen and Members of the Committee:

Rental By Owner Awareness Association, RBOAA, supports State of Hawaii tax and County zoning compliance.

HB419 H.D. 1 sets forth a number of conditions for a county to be eligible to receive \$1,000,000 from transient accommodation tax for the purpose of enforcement. RBOAA takes no position on the distribution of money to the counties for transient accommodation/short term vacation rental compliance.

RBOAA has concern with the following:

All Transient Accommodation/Short Term Vacation Rentals Would Need Special Use Permit

This Bill seeks to establish a uniform set of conditions that may, or may not, be applicable and compatible with each county's ordinances: For example:

Per the 2018 Visitor Plant Inventory of the 30,139 individually advertised units; ***"most of the Individually Advertised Vacation Rental Units were located within the state's resort areas. It is likely that most of these units have historically been available as visitor units ..."*** (emphasis added)

It is often an overlooked fact in the public dialog, however, the MAJORITY of individually advertised vacation rental units are operating in compliance with county zone. While much focus is on those who do not operate in zoning compliance, these are the minority.

The majority of TA/STVR are within resort zones where it is legal to operate without a special use permit on O'ahu, Kaua'i, Maui and Hawai'i Island. The counties long ago adopted ordinances that do not

require a special issue permit in resort zones where transient accommodation and short term vacation rental is a legal activity per zone.

If the counties were now to adopt a special use permit process for those who are already legally zoned, it would take years to implement a new system to issue special use permits for all operators who rent within legal zoning.

Secondly, the purpose of such "special use permit" is for enforcement. If an operator is already in compliance due to the legal activity within the zone, there is not a necessity for a special use permit and a need to enforce what is already legal.

Special Tax Rate that Applies Only to Transient Accommodations/Short Term Vacation Rentals

Any such new property tax designation should have a rate that does not exceed the hotel tax rate in each county.

Noting the above concerns, RBOAA is generally supportive of HB 419 H.D.1. We appreciate the opportunity to provide feedback.”

Sincerely,

Alicia Humiston
President,
Rentals by Owner Awareness Association