



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 419, RELATING TO TRANSIENT ACCOMMODATIONS.

BEFORE THE:

HOUSE COMMITTEE ON TOURISM AND INTERNATIONAL AFFAIRS

DATE: Tuesday, February 5, 2019 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Clare E. Connors, Attorney General, or
Kristen M.R. Sakamoto, Deputy Attorney General

Chair Onishi and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill provides that a county shall be eligible to receive \$1,000,000 for fiscal year 2019-2020 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 the specified conditions.

We note that section 2 of the bill allocates \$4,000,000 to the counties from the transient accommodations tax revenues prior to any distribution to the counties under section 237D-6.5, Hawaii Revised Statutes (HRS).

In section 3, however, the bill states that each county receiving an "appropriation . . . as established in this Act shall submit an interim report to the legislature." The bill further states that the reports shall include all enforcement actions taken wherein the county expended any funds "appropriated by this Act."

An appropriation is made from "excess revenues" that are deposited into the general fund, whereas funding that is authorized prior to distribution to the counties under section 237D-6.5, HRS, is an allocation and not an appropriation.

Accordingly, if the intent of this bill is to provide \$4,000,000 to the counties before the distribution under section 237D-6.5, HRS, as provided in section 2 of this bill, we suggest the following amendments to section 3:

SECTION 3. Each county receiving an [~~appropriation~~] allocation for the enforcement of all applicable laws and ordinances relating to transient accommodations and short-term vacation rentals as established in this Act shall submit an interim report to the legislature no later than twenty days prior to the convening of the regular session of 2020 and a final report within twenty days after the close of the 2019-2020 fiscal year. The reports shall include all enforcement actions taken by the respective county wherein the county expended any funds [~~appropriated~~] allocated by this Act.

Thank you for the opportunity to provide comments.

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**

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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 TOURISM AND INTERNATIONAL AFFAIRS
ON
HOUSE BILL NO. 419

**February 5, 2019
9:00 a.m.
Room 312**



RELATING TO TRANSIENT ACCOMMODATIONS

House Bill No. 419 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 ten days of receiving written notification from the mayor of a county. B&F does not have the expertise to determine if a county's efforts to fulfill the specified conditions are "satisfactory" and to specify actions that a county must take to achieve "satisfactory" compliance, if necessary. Further, 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.

Secondly, with regards to the \$4.0 million allocation to the counties, it is unclear if this is a one-time allocation or an ongoing allocation. If the allocation is to be ongoing, Section 237D-6.5, HRS, should be amended to designate another allocation for this purpose.

Thank you for your consideration of our comments.

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

INTRODUCED BY: ONISHI, BROWER, CREAGAN, HOLT, LUKE, NAKASHIMA,
Morikawa

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, 2019.

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
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responded with all-too-familiar excuses of being resource constrained. This bill proposes to break the logjam using the carrot approach.

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Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

HB 419

Relating To Transient Accommodations

COMMITTEE ON TOURISM AND INTERNATIONAL AFFAIRS

Tuesday, February 5, 2019, 9:00 am

Conference Room 312

Dear Chair Onishi, Vice Chair Holt 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 HB 419**, 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.



HAWAI'I LODGING & TOURISM
ASSOCIATION

LATE

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

Committee on Tourism & International Affairs
February 5, 2019

House Bill 419: Relating to Transient Accommodations

Chair Onishi and members of the House Committee on Tourism and International Affairs, 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 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.