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GOVERNOR

JOSH GREEN M.D.  
LIEUTENANT GOVERNOR



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DEPUTY DIRECTOR

**STATE OF HAWAII  
DEPARTMENT OF TAXATION**

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To: The Honorable Glenn Wakai, Chair  
and Members of the Senate Committee on Energy, Economic Development, and  
Tourism

Date: Wednesday, February 13, 2019  
Time: 2:50 P.M.  
Place: Conference Room 414, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: S.B. 380, Relating to Taxation

The Department of Taxation (Department) has concerns regarding S.B. 380 and offers the following comments for the Committee's consideration.

S.B. 380 amends the definition of "gross rental" or "gross rental proceeds" in Hawaii Revised Statutes (HRS) section 237D-1, to clarify that resort fees, defined as any charge or surcharge imposed by an operator, owner, or representative for the use of the transient accommodation's property, services, or amenities, are included in gross rental proceeds and are therefore subject to the transient accommodations tax (TAT). The bill is effective on July 1, 2019.

Resort fees, also known as amenity fees and facility fees, are fees that are added to the nightly rate of transient accommodations. The components of resort fees vary greatly between transient accommodations, but often include amenities that were previously built into the nightly rate, such as in-room water and coffee, use of an in-room safe, access to pools and pool towels, access to fitness centers, parking, and housekeeping. This bill will clarify that these fees are subject to the TAT.

The Department notes that the bill is substantively identical to S.B. 2699, S.D. 2, H.D. 1, C.D. 1, from the 2018 Legislative session, which was vetoed by the Governor. The Department notes the objections to the bill from Governor's Message No. 1257, dated July 10, 2018, which state that the bill may lead to a large and ambiguous expansion of the TAT and undermines the Department's current interpretation of the TAT.

The Department notes that its current interpretation is that only fees that are mandatory

should be included in the definition of resort fees and subject to the TAT. Thus, the Department recommends that the definition of “resort fees” be amended to limit resort fees to only mandatory fees.

Thank you for the opportunity to provide comments.



**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

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai'i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

The HLTA opposes these measures, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry's perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state's highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Applies Tax to Resort Fees

BILL NUMBER: SB 380

INTRODUCED BY: DELA CRUZ, S. CHANG, KIDANI, Kanuha, Nishihara, Shimabukuro

EXECUTIVE SUMMARY: Imposes the transient accommodations tax on additional hotel resort fees that are calculated separately from the advertised transient accommodation's rate. We fail to understand how this bill is different from SB 2699 (2018), which was vetoed last year, and for that reason we think it is objectionable for the same reasons.

SYNOPSIS: Adds a new definition of "resort fee" to section 237D-1, HRS. Resort fee is defined as any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of the transient accommodation's property, services, or amenities.

Amends the definition of "gross rental" in section 237D-1, HRS, to explicitly include resort fees.

EFFECTIVE DATE: July 1, 2019.

STAFF COMMENTS: A "resort fee," which also goes on your bill if you stay at a hotel, and not only in Hawaii but in some foreign destinations such as Mexico, Canada, and the Caribbean, is to pay for other amenities such as use of the hotel's weight room, or pool, or Wi-Fi internet service.

"Oh?" you might say. "I thought those things were included in the room rate."

That's precisely the point, both for the hotels and the Tax Department. The TAT is 10.25% of the gross room rate. Our supreme court has said, "in determining tax liability it is fundamental that substance, rather than the form of the transaction, governs. Actualities and consequences of a commercial transaction, rather than the method employed in doing business, are controlling factors in determining such liability." *In re Kobayashi*, 44 Haw. 584, 358 P.2d 539 (1961). Thus, if a "resort fee" really is a piece of the room charge, by any other name, then it's taxable as a room charge.

One of the tests that the Department is now using to figure out if a resort fee is a room charge with another name is whether the charge is "mandatory." If the fee is not part of the room charge, then a guest staying at a hotel should be able to opt out of it.

This bill, however, defines a resort fee as "any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of the transient accommodation's property, services, or amenities."

Whoa there! Wouldn't that make pretty much anything on the hotel bill a resort fee? Suppose you watch an in-room movie and get billed for it. Isn't that a charge for one of the hotel's amenities, namely the in-room TV and movie system? What about a charge for a meal? If you

were to eat in your room, or even in the hotel restaurant, for that matter, isn't the meal charge for the hotel's property (food), services (servers), and amenities (in your room, or in the hotel restaurant)? This certainly was not the intent of the TAT when it was enacted, and it would be far different from most hotel room taxes across the country and internationally if the tax is applied in this manner.

Apparently, some lawmakers were unhappy that the TAT was not being applied to resort fees even if they were shown to be truly optional charges for things other than a transient room rental. SB 2699 (2018), which defined resort fees similarly to this bill, resulted and was vetoed by the Governor. The veto message said:

The purpose of this bill is to ensure that Transient Accommodations Tax (TAT) is imposed on resort fees charged by hotels and other transient accommodations. Section 1 of this bill amends the definition of "gross rental proceeds" to include resort fees and adds a definition of "resort fee." "Resort fee" is defined as: "any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of the transient accommodation's property, services, or amenities."

Section 2 of this bill authorizes the Department of Taxation to issue administrative rules further defining "resort fee" and "gross rental proceeds" and clarifies that the bill does not prevent the Department of Taxation from collecting TAT on resort fees prior to the issuance of administrative rules.

This bill is objectionable because it creates the potential for a large and ambiguous expansion of the TAT and also undermines the Department of Taxation's current interpretation of the TAT.

The current draft of the bill does not properly reflect the Department of Taxation's current position. The qualifier "mandatory" in the definition of "resort fee" was removed and would allow an overzealous interpretation of that term. Such an interpretation would subject charges to the TAT even if those charges were unrelated to the letting of the transient accommodation. This may include discretionary charges such as those for long-distance telephone calls, movie rentals, room service, and any other charge to the occupant of a transient accommodation. The potential for such a large and ambiguous expansion of the TAT, which directly affects the state's largest industry, was not fully contemplated during the legislative process and may lead to many unintended consequences.

Furthermore, by omission of the word "mandatory," this bill simultaneously undermines the Department of Taxation's current position and leaves the agency with no guidance toward a new position.

The Department of Taxation's current position is clear; its position is that only mandatory resort fees are subject to the TAT. By its exclusion of the word "mandatory," this bill undermines that interpretation. During the 2018 Legislative Session the proposed definition of "resort fee" was amended numerous times to both include and exclude the

qualifier "mandatory." The final bill omits "mandatory," therefore it could be argued that the bill overturns the Department of Taxation's position that only mandatory resort fees are subject to the TAT. Even though the bill may overturn the Department of Taxation's current position, it offers no guidance toward a new position. This bill's definition of "resort fee" does not limit what may be included in "resort fee" in any way. Therefore, the bill leaves full interpretation of the definition of "resort fee" to the Department of Taxation while simultaneously undermining its current interpretation.

The lack of clarity inherent in this bill will lead to ambiguity, confusion, and unintended consequences within the TAT.

This bill does not appear to be different from SB 2699, and thus seems to be similarly objectionable.

Digested 2/7/2019



Prince Resorts Hawaii

February 8, 2019

Testimony of KISAN JO, PRESIDENT, PRINCE RESORTS HAWAII

Senate Committee on Energy, Economic Development, and Tourism

**Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax**

Chair Wakai, and members of the Committees:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

Prince Resorts Hawaii, Inc., which owns and operates three luxury hotel properties in the State of Hawaii, with over **1,000 rooms and 1,400 employees statewide**, The Prince Waikiki in Oahu; the Mauna Kea Beach Hotel; and The Westin Hapuna Beach Resort on Hawaii Island. The collection also includes the Hawaii Prince Golf Club, Hapuna Golf Course, Mauna Kea Golf Course, Mauna Kea Resort Services and South Kohala Water Company.

**Prince Resorts Hawaii opposes this measure, for these reasons:**

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo,



Kisan Jo  
President  
Prince Resorts Hawaii



February 8, 2019

Senator Glenn Wakai, Chair  
Senate Committee on Energy, Economic Development and Tourism  
Hawaii State Legislature

**Testimony in Opposition to Senate Bill 380 and Senate 714: Relating to the Transient Accommodations Tax**

Dear Senator Wakai and Members of the Senate Committee on Energy, Economic Development and Tourism,

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.” The Kohala Coast Resort Association opposes both of these bills.

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fees because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, etc. Many lodging properties have decided to recover some of the costs of guest amenities through a resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry, and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.25 percent general excise tax (on Hawaii Island) added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai‘i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year to fund the Honolulu Rail Project, as it is levied solely on the hotel, resort, and timeshare industry.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

And to further complicate matters, Hawaii Island and the properties along Kohala Coast are still suffering from last year's Kilauea eruption.

Lastly, we believe the Legislature must make a stronger push to enact tax legislation on the individual vacation rental units throughout the state. By Airbnb's estimates alone, if this tax had been applied fairly and equitably, the state would already be collecting more than the fees generated by this proposed tax on resort fees.

KCRA is a collection of master-planned resorts and hotels situated north of the airport which represents more than 3,500 hotel and timeshare accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the Island of Hawai'i. KCRA member properties annually pay more than \$20 million in TAT and \$20 million in GET.

We encourage your opposition to this measure.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie P. Donoho".

Stephanie Donoho  
Administrative Director

Testimony of

Rob Robinson, Vice President  
OLS Hotels & Resorts

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

OLS Hotels & Resorts currently operates four hotels in the Hawaiian Islands with plans for significant expansion, however, increased taxation measures disincentivize companies like ours from seeking new opportunities.

OLS opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo.

Testimony of

Steve Yannarell  
General Manager

Waikoloa Beach Marriott Resort and Spa

Senate Committee on Energy, Economic Development, and Tourism

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Mahalo for the opportunity to offer this testimony on behalf of the Waikoloa Beach Marriott Resort and Spa, a mixed use facility with 300 hotel rooms and 112 Marriott Vacation Club suites located along the beautiful Kohala Coast. We employ over 300 associates from across Hawaii Island and are a member of the Hawaii Lodging and Tourism Association the largest private sector visitor industry organization in the state with 700 members, 170 of which are hotels managing 51,000 rooms and nearly 40,000 employees.

I opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo.



**Sheraton**  
KAUAI RESORT

Testimony of Gerald Bahouth, General Manager  
SHERATON KAUAI RESORT

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

The HLTA opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the

TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

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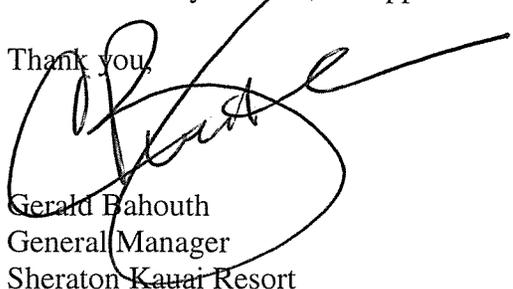
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For these many reasons, we oppose these measures.

Thank you,



Gerald Bahouth  
General Manager  
Sheraton Kauai Resort

**Testimony of**

**Kelvin Bloom  
Aqua-Aston Hospitality, LLC**

**Before the Senate committee on Energy, Economic Development, and Tourism**

**Wednesday, February 13, 2019; 2:50pm  
State Capitol, Conference Room 414**

**In Consideration of  
Senate Bill 380 and Senate Bill 714  
Relating to the Transient Accommodations Tax**

Dear Chair Wakai and Committee Members:

I am Kelvin Bloom, Manager of Aqua-Aston Hospitality, LLC, which manages many hotels and resorts in the State of Hawaii. Aqua-Aston opposes both Senate Bill 380 and Senate Bill 714, which defines Resort Fee to mean any charge or surcharge assessed for the use of a transient accommodation's property, services or amenities and amends the definition of Gross Rental or Gross Rental Proceeds to impose the transient accommodations tax on resort fees that are calculated separately from the advertised transient accommodation's room rate.

Tourism is the state's largest revenue producer and the largest single source of private capital for our economy, but it is not an infinitely prosperous, infinitely taxable entity. Lower-priced destinations and long-haul airline flights make travel to other locales easier and less expensive. Hawaii must remain competitive in its pricing to protect its value and appeal in the eyes of the traveler.

Currently, the transient accommodation tax is paid by transient guests on the amount an owner or operator of a hotel charges for furnishing transient accommodations (the "Gross Rental" or "Gross Rental Proceeds"). These measures propose to capture more taxes by defining the term Resort Fee to include any fee assessed for the property, services or amenities and to include within the definition of Gross Rental or Gross Rental Proceeds, any resort fee charged by the owner or operator of the hotel for additional services or amenities provided to the transient guest such as gym facilities, WiFi, shuttle services and so forth. The resort fee is not a part of a guest room or transient accommodation. The resort fee is a fee for additional services or amenities. Aqua-Aston understands the desire to raise more revenue without raising taxes on

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the local constituency, however, imposing an additional tax burden on transient guests by charging a tax on the resort fee will put Hawaii's fragile and highly competitive industry at a disadvantage causing tourism to decline and ultimately offset any hopes of increasing revenue.

In 2018 the transient accommodation tax increased to a double-digit tax of 10.25%. Coupled with the Hawaii general excise tax, a transient guest now pays almost 15% in tax for renting accommodations in Hawaii. Hawaii is already one of the highest taxed leisure and resort destinations in the country. Higher taxes harm the ability of Hawaii to compete for visitors. Visitors will soon begin to choose their destinations more carefully to avoid the burden of high taxes.

Finally, the Uniform System of Accounts for the Lodging Industry (USALI) published by the American Hotel and Lodging Association establishes a uniform responsibility accounting system for the lodging industry. The 11<sup>th</sup> edition of USALI, the most recent edition, treats resort fees as Miscellaneous Income separate and apart from the three other revenue categories of Room Revenue, Food and Beverage Revenue and Other Operating Revenue. The purpose of reporting resort fees as Miscellaneous Income was to ensure consistent reporting of revenues and consistent calculations of the average daily rate (ADR) and the revenue per available room (RevPAR).

Both SB 380 and SB714 seek to impose an additional tax burden on our visitors, who already currently pay approximately 15% in taxes for their accommodations. Let's not make visiting Hawaii a burden for those who are responsible for driving our economy. For the reasons above, I oppose both SB380 and SB714. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin Bloom', written over a thin horizontal line.

Kelvin Bloom  
Manager

Testimony of

Robin Graf, VP Operations  
Castle Resorts & Hotels

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

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The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

The HLTA opposes this measure, for these reasons:

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percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

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For these many reasons, we oppose these measures.

Mahalo.



Testimony of Wade Gesteuyala

Hampton Inn & Suites Oahu/Kapolei

Senate Committee on Energy, Economic Development, and Tourism

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For these many reasons, we oppose these measures.

Mahalo.

  
Wade Gesteuyala



# Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

SB 380

**Relating To Transient Accommodations Tax**

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

**Wednesday, February 13, 2019, 2:50 pm**

**Conference Room 414**

Dear Chair Wakai, Vice Chair Taniguchi 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 **opposed to SB 380**, which imposes the transient accommodations tax on resort fees and requires that those fees be included in gross rental proceeds.

MHLA believes that changing the language in 237D-1 to add “resort fees” to “gross rental proceeds” is not appropriate as resort fees are for services or products provided to the guest sometimes through a third part vendor. Additionally, the resort fee typically includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

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

Thank you for the opportunity to testify.

Testimony of

Rob Gunthner, Area Vice President, Resort Operations - Hawaii  
Hilton Grand Vacations

Senate Committee on Energy, Economic Development, and Tourism

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Mahalo.

Testimony of

Kelly Hoen  
Outrigger Waikiki Beach Resort  
Outrigger Reef Waikiki Beach Resort  
Hawaii Lodging and Tourism Association

Senate Committee on Energy, Economic Development, and Tourism

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I am Kelly Hoen, the Area General Manager for the Outrigger Waikiki Beach Resort and the Outrigger Reef Waikiki beach Resort an integral part of Outrigger Hospitality Group. I am also a board member of the HLTA - The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

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Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo nui.

Testimony of

Barbara A. Campbell  
Outrigger Hospitality Group

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

As a member of HLTA, I oppose this measure for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

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For these many reasons, we oppose these measures.

Mahalo.

**SB-380**

Submitted on: 2/12/2019 1:23:00 PM

Testimony for EET on 2/13/2019 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bill Countryman	Testifying for Marriott's Maui Ocean Club	Oppose	No

Comments:

Testimony of

Bill Countryman

Marriott's Maui Ocean Club

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

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 MHLA opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending proposal to increase the state's minimum wage.

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Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Thank you for the opportunity to testify.



Testimony of

Michael Jokovich  
Area Vice President  
Hyatt Resorts Hawaii

Senate Committee on:  
Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

My name is Michael Jokovich, Area Vice President and General Manager of the Andaz Maui at Wailea Resort. Mahalo for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

Hyatt Resorts Hawaii (HRH) includes Andaz Maui at Wailea Resort, Hyatt Regency Maui, Grand Hyatt Kauai, Hyatt Regency Waikiki Beach, and Hyatt Centric Waikiki Beach. Collectively, HRH employs over 2,000 residents and represents over 3,100 rooms. HRH opposes these measures because the definition of “resort fees” in both of the measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which we opposed last year, and was vetoed by the Governor for its vague expansion of the TAT that could have potentially been imposed on almost any business activity in a hotel.

I believe that changing the language in 237D-1 to add “resort fees” to “gross rental proceeds” is not appropriate as resort fees are for services or products provided to the guest sometimes through a third-party vendor. Hotels surveys have indicated that guests would prefer an all-inclusive resort fee rather than being charged for each, individual service. Thank you for the opportunity to testify.

Mahalo for the opportunity to testify,

A handwritten signature in black ink, appearing to read "Michael Jokovich". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Jokovich  
Area Vice President Hawaii



February 12, 2019

Re: Testimony of Bonnie Kiyabu  
Pualeilani Atrium Shops, Hyatt Regency Waikiki Beach Resort & Spa

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

The HLTA opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

Traditionally, the TAT has not been applied to the resort fee because this charge is not part of a guest room or transient accommodation. It is for services or products used by guests, such as the use of gym and spa facilities, wi-fi, shuttle services, and so forth. Many lodging properties have decided to recover some of the costs of guest amenities through the resort fee. This fee customarily includes a bundle of services that would cost more individually if they were not grouped. Hotel surveys have revealed that guests prefer an all-inclusive resort fee rather than being charged for each service used, as was the practice in the past. Hotels have been transparent about these resort fees; they are fully disclosed on hotel websites, as well as on online booking engines and at the time of check-in. Additionally, hotels do collect and remit to the state the general excise tax on these resort fees.

From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai‘i Tourism Authority, it

generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

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More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo,



Bonnie Kiyabu  
Director, Retail Operations  
Pualeilani Atrium Shops



February 12, 2019

Re: Testimony of Doug Sears  
General Manager, Hyatt Regency Waikiki Resort and Spa

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

Hyatt Regency Waikiki along with HLTA opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests. Added fees effect discretionary spending thus broadening its impact to retailers, and companies reliant on our industry.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

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For these many reasons, we oppose these measures.

Mahalo.

Testimony of

Michael Czarcinski  
General Manager  
Moana Surfrider, A Westin Resort & Spa

**LATE**

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

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For these many reasons, we oppose these measures.

Mahalo



Michael Czarcinski  
General Manager  
Moana Surfrider, A Westin Resort & Spa  
2365 Kalakaua Avenue  
Honolulu Hawaii 96815 USA

Testimony of

Jeff Wagoner  
Outrigger Enterprises Group

**LATE**

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

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From the hospitality industry's perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state's highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being

taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

The visitor industry, and Hawai'i's economy as a whole, have enjoyed seven consecutive years of growth, meaning that TAT revenues have grown commensurately and so has the amount of revenue being diverted to the general fund. Not only is additional revenue being generated, but the visitor industry now finds itself financing the City and County of Honolulu's rail project. This practice of the hospitality industry footing the bill for new mandates and to balance the state budget, with the only overarching justification given that government needs the money, is a dangerous pattern with no end in sight. An industry can only bear so much before competitive pressures affect its viability.

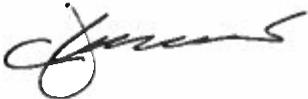
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More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo,

A handwritten signature in black ink, appearing to read "Jeff Wagoner", written in a cursive style.

Jeff Wagoner  
President & CEO

Testimony of

Scott Ingwers, Regional Vice President  
Trump International Hotel Waikiki

**LATE**

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

We opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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For these many reasons, we oppose these measures.

Mahalo.



**HAWAI'I LODGING & TOURISM**  
**ASSOCIATION**

Testimony of

Angela Nolan  
General Manager

Marriott Ko Olina Beach Club

**LATE**

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The Hawai'i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees. I serve on the Board of this vital Association, it's Oahu Chapter and most recently served on the Maui Hotel & Lodging Association.

The HLTA and our Chapters oppose these measures, for these reasons:

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

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For these many reasons, we oppose these measures. We humbly ask for your consideration.

Mahalo.



**LATE**

Testimony of

GLENN VERGARA  
WAIKIKI RESORT HOTEL

Senate Committees on:  
Energy, Economic Development, and Tourism  
Commerce, Consumer Protection, and Health;  
Senate Committee on Ways and Means

Senate Bill 380: Relating to Transient Accommodations Tax

Chair Wakai, Chair Dela Cruz, and members of the Committees:

On behalf of the Waikiki Resort Hotel, a 275 room hotel with 121 employees, I respectfully submit this written testimony OPPOSING SB 380 Relating to Transient Accommodations Tax.

As an active member of the HLTA, the Waikiki Resort Hotel strongly OPPOSES Senate Bill 390 and any other legislation regarding amending the definition of Resort Fees to include said resort fees as taxable income as part of transient accommodation's gross rental or gross rental proceeds.

Based on our hotel forecasts over the next year, and supported by recent stats from the Hawaii Tourism Authority, we've reached a point at which further tourism growth will be, in my opinion, minimal at best. Hawaii already has the distinction of having one of the highest, if not the highest, hotel rates in the nation so any further increase in the cost to visit only raises the risk of future long-term decline.

Thank you for your consideration.

**SB-380**

Submitted on: 2/12/2019 7:26:36 PM

Testimony for EET on 2/13/2019 2:50:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Jason Ito	Testifying for Kyo-ya Management Co., Ltd.	Oppose	No

Comments:

Kyo-ya Mgt. Co., Ltd. opposes this measure.

The TAT was not established for this purpose and places a financial burden on the state's greatest economic contributor. The hotels are currently taxed at 10.25 percent and this would add more to the fees already paid by our guests which may make Hawaii less desirable to these guests and potential visitors to Hawaii.

The TAT has not been applied to the Resort Fee (RF) because this charge is not part of a guest room or any transient accommodation. The RF covers expenses for services or products used by our guests, such as Go Pro's, fitness equipment, wireless devices, games, water equipment, yoga instruction, pool activities, and other features desired by our guests to be used outside of their guest room. The RF is usually bundled as a complement of services offered as a group of services or features. Our guests prefer to pay a bundled fee vs individual fees for these services. We proactively inform our guests of the RF prior to their arrival through our on-line sites and when they check-in. We apply and remit to the state the general excise tax on the RFs.

Our workforce is dependent on the success of the hotels for their livelihood and to support their children and kupuna.

Thank you for considering our testimony.



# WAIKĪKĪ IMPROVEMENT ASSOCIATION

Statement of **Rick Egged, President, Waikiki Improvement Association**

Before the Senate Committee on:

**Energy, Economic Development, and Tourism**

Wednesday, February 13, 2019

in consideration of

**LATE**

**RE: SB380 and 714 Relating to the Transit Accommodations Tax**

Aloha Chair Wakai and members of the committee. I am Rick Egged testifying on behalf of the Waikīkī Improvement Association. WIA is a nonprofit organization representing 177 leading businesses and stakeholders in Waikīkī.

## **The Waikīkī Improvement Association opposes SB 380 and SB 714.**

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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Thank you for this opportunity to provide these comments on this important legislation.

Testimony of

Denise Wardlow/General Manager  
The Westin Princeville Ocean Resort Vi

**LATE**

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

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I opposes this measure, for these reasons:

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For these many reasons, we oppose these measures.

Mahalo.



**‘A LOH I L A N I**  
**R E S O R T**  
W A I K I K I B E A C H

**LATE**

Testimony of

Matthew Grauso  
General Manager  
‘Alohilani Resort Waikiki Beach

Senate Committee on Energy, Economic Development, and Tourism

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‘Alohilani Resort Waikiki Beach is one of the larger hotels in Waikiki, a 839-room property with over 400 employees, and serving over 550,000 guests each year.

‘Alohilani Resort opposes these measures, for these reasons:

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# 'A LOH I L A N I R E S O R T

WAIKĪKI BEACH

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For these many reasons, we oppose these measures.

Mahalo.

Matthew Grauso  
General Manager



H I G H G A T E

Testimony of

Cheryl Williams  
Vice President of Sales & Marketing - Hawaii  
Highgate Hawaii

**LATE**

Senate Committee on Energy, Economic Development, and Tourism

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More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many more months before the industry is back to its pre-disaster status. Then, late last year, one of our major hotel chains experienced a prolonged labor strike that not only affected our visitor counts but will ultimately increase the cost of business for that enterprise. The Hawai'i Tourism Authority has reported some slowing in visitor arrivals, while economists are cautioning us about a general slowdown in the economy that will certainly have a measurable effect on tourism. These factors should give pause to any tax proposals that will impact a highly competitive, price-sensitive industry like tourism.

Lastly, an acceptable resolution of the tax collection issue regarding transient vacation rentals—most of which are operating illegally and avoiding the payment of TAT and GET taxes—has defied the best efforts of the Legislature, administration, and hotel industry. We believe a stronger push to enact tax legislation in that regard would have generated far more than the additional revenue you are seeking through this resort fee taxation proposal.

For these many reasons, we oppose these measures.

Mahalo,

Cheryl Williams





**LATE**

Testimony of

Stephen Hinck  
General Manager  
Hilton Garden Inn Waikiki Beach

Senate Committee on Energy, Economic Development, and Tourism

Senate Bill 380 and Senate Bill 714: Relating to the Transient Accommodations Tax

Chair Wakai, and members of the Committee:

Thank you for the opportunity to offer this testimony regarding Senate Bill 380 and Senate Bill 714, which proposes to impose the Transient Accommodations Tax on resort fees. These measures define resort fees as “any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of transient accommodations, property, services, or amenities.”

The Hawai‘i Lodging & Tourism Association is the largest private sector visitor industry organization in the islands with 700 members, 170 of which are hotels with 51,000 rooms and nearly 40,000 employees.

The HLTA opposes these measures, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699 S.D. 2, H.D. 1, C.D. 1. (2018) which was vetoed by the Governor last year, as it was vaguely crafted and created an unreasonably ambiguous expansion of the TAT that could have potentially been imposed on just about any business activity in a hotel.

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From the hospitality industry’s perspective, the TAT was not established for this purpose and places yet another financial burden on what is already the state’s highest-taxed industry and greatest economic contributor. Hotel, resort, and timeshare guests presently are being taxed at a whopping 10.25 percent, with an additional 4.5 percent general excise tax added to the final charges. This proposal would only add to the fees passed on to our guests.

Legislators promised that the TAT would revert back to 7.75 percent in 2015, but that promise was not kept, and we have since been on the watch for ever more increases that are being used to replenish state coffers. In fiscal year 2013, the general fund allocation from the TAT was 41.9 percent, five years later it ballooned to 52.3 percent, and in fiscal year 2018 it grew to 60.4 percent, a development far removed from the original intent of the TAT, which was to fund tourism marketing, the convention center, and county services that support tourism.

The visitor industry is the economic driver for our economy. According to the Hawai'i Tourism Authority, it generates more than 200,000 jobs, and now raises \$545 million through the TAT alone, a tax that was just raised at the beginning of last year and is levied solely on the hotel, resort, and timeshare industry.

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For these many reasons, we oppose these measures.

Mahalo.

Testimony of

Jim Paulon  
General Manager  
Courtyard by Marriott Waikiki Beach

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For these many reasons, we oppose these measures.

Mahalo.



Testimony of

Kurt Kishaba  
General Manager  
Pearl Hotel Waikiki

**LATE**

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Mahalo.



**WAIKIKI  
BEACH HOTEL**

**LATE**

Testimony of

Mark DeMello  
General Manager  
Aston Waikiki Beach Hotel

Senate Committee on Energy, Economic Development, and Tourism

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Mahalo.

**SB-380**

Submitted on: 2/13/2019 2:56:11 PM

Testimony for EET on 2/13/2019 2:50:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Robert Ishihara	Testifying for Hokulani Waikiki by Hilton Grand Vacations Club	Oppose	No

Comments:

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