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**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Energy, Economic Development, and Tourism,  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs,  
and  
Senate Committee on Commerce, Consumer Protection, and Health  
Monday, February 11, 2019  
2:50 p.m.  
State Capitol, Conference Room 414**

**On the following measure:  
S.B. 960, RELATING TO TRANSIENT VACATION RENTALS**

Chairs Wakai, Nishihara, and Baker and Members of the Committees:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (DCCA or Department). The Department offers comments on this bill.

The purposes of this bill are to: (1) require registration of transient vacation rentals with the director of the DCCA prior to operating or doing business in the State; (2) permit certain nonconforming uses of transient vacation rentals; (3) establish penalties for noncompliance with registration requirements and allocate associated fines to the compliance resolution fund; (4) authorize the counties to impose additional regulations; and (5) require the DCCA to establish and maintain a searchable database of transient vacation rentals.

As a general matter, the Department notes that under Hawaii Revised Statutes (HRS) section 26H-6, new regulatory measures being considered for enactment must be referred to the State Auditor for a sunrise analysis. Referral is required to be made by concurrent resolution that identifies a specific legislative bill to be analyzed. The statute further requires that the analysis set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of HRS 26H-6, and assess alternative forms of regulation. Accordingly, this bill should be deferred in accordance with HRS section 26H-6 until the State Auditor conducts a sunrise analysis on this measure.

In addition, the Department believes the bill's proposed registration and enforcement provisions will not effectively address the issues concerning transient vacation rentals. Under HRS section 26H-2(1), "The regulation and licensing of professions and vocations shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation[.]" In addition, HRS section 26H-2(4) provides, "Professional and vocational regulations which artificially increase the costs of goods and services to the consumer shall be avoided except in those cases where the legislature determines that this cost is exceeded by the potential danger to the consumer[.]" The risk that transient vacation rental transactions pose to consumers does not seem to rise to the level of risk that DCCA-regulated trades and professions pose to consumers. Indeed, consumers are relying on online reviews and comments to evaluate transient vacation rentals, and based on the popularity of these accommodations, consumers may not be encountering the types of harm that would necessitate consumer protection regulation.

Moreover, if registration of transient vacation rentals were mandated, the Department would need to ensure the operator complied with all applicable laws as a condition of registration and before it approved the operator's transient vacation rental. The Department would necessarily require an applicant to provide proof of the operator's transient accommodations tax number and proof of compliance with applicable zoning

requirements. Accordingly, this bill would place additional layers of cost and regulation on law-abiding operators without meaningfully capturing noncompliant operations.

Finally, the Department respectfully suggests that in lieu of the requirement that the DCCA establish and maintain a searchable database of transient vacation rentals, the Committees consider using a model similar to Hawaii Compliance Express<sup>1</sup> to house information on transient vacation rentals. Hawaii Compliance Express is a database that provides compliance certificates for businesses and eliminates the need to obtain individual copies of clearances with the Internal Revenue Service, Department of Labor, DCCA, and Department of Taxation.

Thank you for the opportunity to testify on this bill.

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<sup>1</sup> Hawaii Compliance Express is available at: <https://vendors.ehawaii.gov/hce/splash/welcome.html#>.



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**David Y. Ige**  
*Governor*

**Chris Tatum**  
*President and Chief Executive Officer*

Statement of  
**CHRIS TATUM**

Hawai'i Tourism Authority  
before the  
**SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM; AND**  
**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY**  
**AFFAIRS; AND**  
**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

Monday, February 11, 2019  
2:50 PM  
State Capitol, Conference Room #414

In consideration of  
**SENATE BILL NO 960**  
**RELATING TO TRANSIENT VACATION RENTALS.**

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Chair Wakai, Chair Nishihara, Chair Baker, Vice Chair Taniguchi, Vice Chair Wakai, Vice Chair Chang and members of the committees, the Hawai'i Tourism Authority (HTA) **supports the intent of SB 960**, which will require the registration of transient vacation rentals with the director of the department of commerce and consumer affairs prior to operating or doing business in the State.

The Hawai'i Tourism Authority supports efforts, at both the state and county level, to address the proliferation of illegal, non-compliant, and potentially unsafe transient vacation rentals throughout our community. At its most recent board meeting, the HTA reaffirmed its position towards illegal vacation rentals. The HTA supports the elimination of illegal vacation rentals in order to ensure that Hawai'i remains a highly desirable place for residents by developing and enforcing laws related to illegal vacation rentals in an effort to improve the quality of life for our residents. As part of this measure, we would ask that language be inserted that would require the registrant to include the respective county TVR license number as part of the process. This would require each applicant to receive proper authorization from their respective county prior to registering with the DCCA.

Thank you for the opportunity to offer testimony and recommended changes to this measure.

**SB-960**

Submitted on: 2/7/2019 6:17:47 PM

Testimony for EET on 2/11/2019 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joshua Kay	Individual	Support	No

Comments:

I'm in support of this bill. I believe it will help to stop vacation rentals from operating in residential and other inappropriate areas.

Aloha Senators and committee members,

I oppose S.B. 960.

S.B. 960 is premature. Even if it isn't scheduled to go into effect until January 2020.

It's a good bill. Don't get me wrong. But these things cut both ways.

All of the counties – except O'ahu, have come to grips with vacation rentals and bed and breakfast homes. Kauai, Maui and Hawaii all provide for permitting of TVUs and Bed and Breakfast homes. On O'ahu legislation is under review, as it has been, more or less, for the past 30 years.

To pass S.B. 960 without allowing for non-registration on Oahu is an injustice to the largest number of residents of any island engaged in the visitor accommodations business. This business on O'ahu is estimated at \$1.5 billion or thereabouts in the aggregate. Tax revenues are estimated at \$148 million. Let's not shoot the State of Hawaii in the foot. Your bill is intended to assure that folks pay the State general excise tax and transient accommodations tax. Not to STOP them from paying these taxes.

In addition, many local families are supplementing their retirement income by letting bed and breakfast accommodations in their homes. These are local residents. S.B. 960 does not differentiate between these locally hosted accommodations and other un-hosted rentals. Both face the same requirements. But the local population sees these owner-occupied units very differently. S.B. 960 treats these different types of rentals all the same.

At the very least, may I suggest that the following five words be deleted from the document:

§ -3 **Registration required.** (a) No transient vacation rental shall operate or do business in this State without first registering with the director under this chapter ~~and fulfilling all county requirements.~~

Mahalo,  
Will Page

Kailua  
808-262-6776

Senator Glenn Wakai, Chair

Senator Brian T. Taniguchi, Vice Chair

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice Chair

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

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Monday, February 11, 2019

COMMENT -- SB 960, RELATING TO TRANSIENT ACCOMMODATIONS

Aloha Honorable Chairs, Vice Chairs and Committee Members:

We urge you to take a broad view of community interests as you consider SB 960. Our obsolete accommodations laws certainly need to be brought in line with modern booking technology, but this needs to be done in a fair, reasonable and businesslike manner.

My wife Janice Grow-Maienza and I have operated a short-term rental small business at our home since retiring from university teaching in 2013. We are empty-nesters living in an ohana apartment at street level, renting out the lower floors and pool house when not occupied by visiting family members. Our General Excise Tax registration is prominently displayed in the office of the rental spaces.

For the past four years we have hosted groups of 6-8 nursing students from a Canadian university, who use our facilities as dormitory and classroom while learning the philosophy and methods of native Hawaiian healing arts. We have also hosted several small teams of technicians who are assigned to Honolulu for short-term work projects. Groups like these prefer a home setting where they can do their own cooking.

We engage local pool maintenance, cleaning and landscaping services on a regular basis, as well as carpenters, painters and tree surgeons when needed.

We have been at pains to avoid noise and traffic problems for our neighbors. Our guests have been quiet. The nursing students and their professor use public transportation to the school clinics that they serve.

We rent less than 12 times a year. We pay the General Excise and Transient Accommodation taxes ourselves and are in good standing with the Department of Taxation. We understand that the transient accommodations industry accounts for about \$5 billion in our economy. The State of Hawaii and its subdivisions need the tax revenue that this rental activity generates.

We welcome registration and reasonable regulation. Laws that are unnecessarily punitive and restrictive would substantially reduce the contribution that accommodations operators are making to the state's economy. Such ill-considered laws would also have a serious impact on us personally. Supplemental rental income enables us to meet sizable fixed costs and stay in our home in retirement.

Mahalo for this opportunity to testify.

/s/ Charles C. Frost



**SB-960**

Submitted on: 2/10/2019 11:18:15 AM

Testimony for EET on 2/11/2019 2:50:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
	Testifying for North Shore Neighbors	Support	No

Comments: