



**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. 714, Relating to the Transient Accommodations Tax

The Department of Taxation (Department) offers the following comments on S.B. 714 for the Committee's consideration.

The following is a summary of the provisions of S.B. 714, which is effective upon approval and applies to taxable years beginning after December 31, 2019:

- Defines “resort fees” 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” or “gross rental proceeds” to include the gross amount collected from the consumer, including resort fees, but excluding fees unrelated to the transient accommodations like fees for ground transportation, airfare, or meals;
- Increases the base of the transient accommodations tax (TAT) imposed on timeshare occupancy to one hundred percent of the gross daily maintenance fees;
- Rebrands “transient accommodations broker, travel agencies, and tour packagers” as “transient accommodations intermediaries.”; and
- Clarifies that any taxpayer liable for taxes under HRS Chapter 237D must comply with the return filing requirements of HRS Chapter 237D.

First, the Department has concerns with the definition of “resort fees” in S.B. 714 and notes that this portion of 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 S.B. 2699, S.D. 2, H.D. 1, C.D. 1 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 subjected to the TAT. Thus, the Department recommends that the definition of "resort fees" be amended to limit resort fees to only mandatory fees.

Second, regarding the increase in the base of the TAT applied to timeshare occupancy, the Department notes that timeshare occupancy is subject to a lower TAT burden than other transient accommodations. Currently, the base of tax is only fifty percent of the gross daily maintenance fees rather than the full fair market value of the accommodation. In most cases, fifty percent of the gross daily maintenance fees will be lower than the true market value of the accommodation. Therefore, this provision of the bill will help to level the imposition of tax on the different transient accommodation business models.

Third, the Department notes that replacement of "transient accommodations brokers, travel agencies, and tour packagers" with "transient accommodations intermediaries" as proposed by this bill is nonsubstantive. Nonetheless, this change will require the Department to edit and reprint numerous forms and instructions. In addition, the change may also require currently registered transient accommodations brokers, travel agencies, or tour packagers to re-register as transient accommodations intermediaries. For this reason, the Department recommends against rebranding "transient accommodations brokers, travel agencies, and tour packagers" as "transient accommodations intermediaries."

The Department notes that the bill requires that "transient accommodations intermediaries" provide the physical address of each transient accommodation when registering with the Department. This is not a requirement under the current HRS section 237D-4.5. If the Committee believes this requirement is necessary, then the Department recommends that it amend the bill to require it under the current HRS section 237D-4.5, rather than by rebranding "transient accommodations brokers, travel agencies" as "transient accommodations intermediaries" throughout HRS Chapter 237D.

Finally, the Department notes that proposed HRS section 237D-4(i) is similar to current HRS section 237D-4.5 and may conflict with that section. To correct this the Department recommends amending S.B. 714 to amend HRS section 237D-4.5 and remove proposed HRS section 237D-4(i). The Department recommends removing proposed HRS section 237D-4(i) from the bill and amending HRS section 237D-4.5 to read as follows:

**§237D-4.5 Certificate of registration for transient accommodations broker, travel agency, and tour packager.** Each transient accommodations [~~broker, travel agency, or tour packager,~~] intermediary, as a condition precedent to entering into an arrangement to furnish transient accommodations at noncommissioned

negotiated contract rates, shall register with the director. The transient accommodations intermediary shall provide the physical address of each transient accommodation for which it will enter into an arrangement to furnish transient accommodations at noncommissioned negotiated contract rates; provided that the transient accommodations intermediary has obtained prior written consent from the operator or plan manager to disclose the address of the transient accommodation. The transient accommodations [~~broker, travel agency, or tour packager~~] intermediary shall make a one-time payment of \$15 for each registration, upon receipt of which the director shall issue a certificate of registration in a form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the transient accommodations [~~broker, travel agency, or tour packager~~] intermediary in whose name it is issued.

The registration shall be effective until canceled in writing. Any application for the reissuance of a previously canceled registration identification number shall be regarded as a new application for registration and shall be subject to the payment of the one-time reservation fee. The director may revoke or cancel any registration issued under this section for cause as provided by rule under chapter 91.

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, Tax Resort Fees, Hike Transient Occupancy Tax, Require Registration of Intermediaries

BILL NUMBER: SB 714

INTRODUCED BY: DELA CRUZ

## EXECUTIVE SUMMARY:

Increases tax on timeshare units by increasing the tax base from half of the gross daily maintenance fee to an unspecified percentage. The definition of the taxable base was adjusted three years ago, and at that time the legislature declined to change the percentage against the Department of Taxation's recommendation. Justification for increasing the percentage now is questionable given that history.

Defines "resort fee" in an all-encompassing manner similar to SB 2699 (2018) that was vetoed by Governor Ige. We see this part of the bill as similarly objectionable.

Defines "transient accommodations intermediary" and asks for reasonable technical conditions such as furnishing the property address.

## SYNOPSIS:

### [Transient Occupancy Tax](#)

Amends section 237D-1, HRS, by changing the definition of "fair market rental value" on which timeshares are taxed from half the gross daily maintenance fees to an unspecified percentage of the gross daily maintenance fees.

### [Resort Fees](#)

Amends section 237D-1, HRS, by adding a definition for "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. Also amends the definition of "gross rental" to include resort fees as so defined.

### [Transient Accommodations Intermediary Registration](#)

Amends section 237D-1, HRS, to replace the current definition of "transient accommodations broker" with "transient accommodations intermediary" defined as any person or entity that offers, lists, advertises, markets, accepts reservations for, or collects whole or partial payment for transient accommodations or resort time share vacation interests, units, or plans, including but not limited to travel agencies, tour packagers, wholesale travel companies, online websites, online travel agencies, online booking agencies, and booking platforms.

Amends section 237D-4, HRS, to provide that each transient accommodations intermediary, as a condition precedent to entering into an arrangement to furnish transient accommodations at

noncommissioned negotiated contract rates, shall register with the director. The transient accommodations intermediary shall provide the physical address of each transient accommodation for which it will enter into an arrangement to furnish transient accommodations at noncommissioned negotiated contract rates; provided that the transient accommodations intermediary has obtained prior written consent from the operator or plan manager to disclose the address of the transient accommodation. The transient accommodations intermediary shall make a one-time payment of \$15 to register with the director. Upon receipt of the registration payment, the director shall issue a certificate of registration to the transient accommodations intermediary in a form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the transient accommodations intermediary in whose name it is issued.

Makes various technical and conforming amendments.

EFFECTIVE DATE: This Act, upon its approval, shall apply to taxable years beginning after December 31, 2019.

STAFF COMMENTS:

#### [Transient Occupancy Tax](#)

Section 1 of the bill recites that the tax formula for levying taxes on timeshare units has not been adjusted since the state began taxing timeshares in 1998, and that the existing tax formula for timeshares significantly underestimates the fair market value of many timeshare units.

Section 237D-1, HRS, contains the definition of “fair market rental value” against which the TAT rate for timeshare units is applied. The definition ends with the sentence, “The taxpayer shall use gross daily maintenance fees, unless the taxpayer proves or the director determines that the gross daily maintenance fees do not fairly represent fair market rental value taking into account comparable transient accommodation rentals or other appraisal methods.”

The premises behind the bill, as recited above, appear to be questionable. The definition of fair market value of a timeshare unit was indeed adjusted four years ago, by Act 93, SLH 2015. In its consideration of the bill the Conference Committee explained:

Your Committee on Conference finds that a change to the definition of “fair market rental value” is in order because the Department of Taxation has not exercised its discretion to take into account comparable transient accommodation rentals or other appraisal methods. However, the Department of Taxation believes that the scope of the gross daily maintenance fees should be clarified so that there is little question as to what is included and what is not included. The tax is based on the maintenance fees of the time share plan and does not include charges for optional goods or services such as food and beverage service. The purpose of this change is not intended to expand or reduce the scope of fees included in the gross daily maintenance fees, and as such, fees such as food and beverage, or other recreational rentals, as well as time share units’ condominium association assessments should not be included.

Conf. Comm. Rep. No. 75 (on HB 169) (2015). The Conference Committee came to these conclusions in the face of testimony by the Department of Taxation that “One-half of daily maintenance fees in most cases is significantly below the true market value of any accommodation. These two factors result in timeshare TAT liability being significantly lower than the liability imposed on comparable hotel accommodations.” Department of Taxation, Testimony Before Senate Ways and Means Committee on HB 169 (Mar. 31, 2015). The Department recommended that “fair market rental value” be adjusted to 100%, rather than 50%, of average daily maintenance fee.

If the Department indeed had determined that gross daily maintenance fee grossly understated fair market value, why didn’t the Department do something about it as contemplated by the last sentence of the definition in section 237D-1, HRS? The Department didn’t bother to support its assertion, the Conference Committee apparently didn’t believe the Department for that reason, and the formula in the definition was not adjusted. If that decision is now to be reexamined, it should be based on hard evidence, not on wild hand-waving and unsupported assertions.

### Resort Fees

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. It's not clear what is different in this bill from SB 2699.

#### [Transient Accommodations Intermediary Registration](#)

This part of the bill appears reasonable.

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:

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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.

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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

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.”

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.

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.

**SB-714**

Submitted on: 2/12/2019 5:45:34 AM

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>
Brett Kulbis	Testifying for Honolulu County Republican Party	Oppose	No

Comments:



**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.

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.

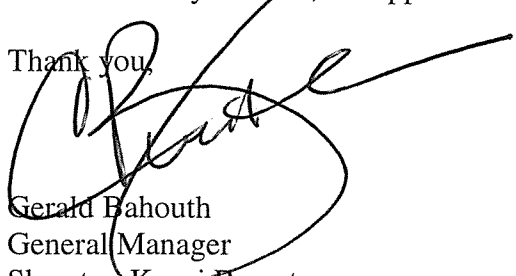
Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, construction and maintenance, utilities, and higher county property taxes—all of which must be passed on to our guests. This does not take into account a pending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

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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 Wade Gesteuyala

Hampton Inn & Suites Oahu/Kapolei

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:

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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.

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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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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.

  
Wade Gesteuyala



Imanaka Asato  
A LIMITED LIABILITY LAW COMPANY

February 11, 2019

Senator Glenn Wakai, Chair  
Senator Brian Taniguchi, Vice Chair  
Members of the Senate Committee on Energy, Economic  
Development and Tourism  
Thirtieth Legislature  
Regular Session of 2019

**RE: SB 714 - Relating to the Transient Accommodations Tax**  
**Hearing date: February 13, 2019 at 2:50 pm**

Aloha Chair Wakai, Vice Chair Taniguchi and Members of the Committees on Energy, Economic  
Development and Tourism,

Thank you for allowing me to submit testimony on behalf of Soleil Management Hawaii, LLC ("Soleil") in OPPOSITION to SB 714 - Relating to Transient Accommodations Tax. Soleil is a condominium association and vacation ownership resort management company providing a full spectrum of management services to customers in Hawaii. Soleil has 17 properties throughout Hawaii and has been doing business in the state for 20 years.

SB 714 would amend the formula for the amount of transient accommodations tax to be collected from time share unit owners by increasing the time share occupancy tax base from 50% to 100% of the gross daily maintenance fees paid by the owner for their unit.

This bill would substantially increase the transient occupancy tax time share owners pay. Time share owners already contribute significantly to public facilities and government services through the payment of state and local taxes, without posing the same tax collection problems that other transient accommodations such as home rentals do. In 2016, Hawaii's time share industry generated about \$72 million in real property, general excise, transient accommodations and transient occupancy taxes. These additional taxes would have a substantial negative impact on the time share unit owners and the tourism industry in general.

In addition, the transient accommodations tax on time share has already increased from 7.25% to 10.25% since 2015. No state other than Hawaii even charges a transient accommodations tax on time share. Increasing the cost of owning a time share in Hawaii even more will cause the viability of this important sector of the tourism industry to decline and drive prospective visitors to choose to purchase and vacation elsewhere. For these reasons, Soleil opposes SB 714. Mahalo for the opportunity to testify.

Sincerely,

Imanaka Asato, LLLC

Kimberley W. Yoshimoto, on behalf of  
Soleil Management Hawaii, LLC



Imanaka Asato  
A LIMITED LIABILITY LAW COMPANY

February 11, 2019

Senator Glenn Wakai, Chair  
Senator Brian Taniguchi, Vice Chair  
Members of the Senate Committee on Energy, Economic  
Development and Tourism  
Thirtieth Legislature  
Regular Session of 2019

**RE: SB 714 - Relating to the Transient Accommodations Tax**  
**Hearing date: February 13, 2019 at 2:50 pm**

Aloha Chair Wakai, Vice Chair Taniguchi and Members of the Committees on Energy, Economic Development and Tourism,

Thank you for allowing me to submit testimony on behalf of Marriott Vacations Worldwide Corporation ("MVWC") in OPPOSITION to SB 714 - Relating to Transient Accommodations Tax. MVWC is a global leader in the time share industry with ten resort properties in Hawaii. Time share is an important and stabilizing part of the tourism industry throughout Hawaii. Time share unit owners have made a long-term commitment to our state by purchasing and owning real property here. Statistics have shown that these owners are consistent and dependable visitors who bring substantial tax dollars to the state and continue to return to the islands even during periods of economic downturn.

SB 714 would amend the formula for the amount of transient accommodations tax to be collected from time share unit owners by increasing the time share occupancy tax base from 50% to 100% of the gross daily maintenance fees paid by the owner for their unit.

MVWC is deeply concerned about the significant negative impacts that SB 714 may have on the time share industry. This bill would substantially increase the transient occupancy tax time share owners pay. Time share owners already contribute significantly to public facilities and government services through the payment of state and local taxes, without posing the same tax collection problems that other transient accommodations such as home rentals do. In fact, according to the Hawaii Tourism Authority, in 2016, Hawaii's time share industry generated about \$72 million in real property, general excise, transient accommodations and transient occupancy taxes.

In addition, the transient accommodations tax on time share has already increased from 7.25% to 10.25% since 2015. No state other than Hawaii even charges a transient accommodations tax on time share. Increasing the cost of owning a time share in Hawaii even more will cause the viability of this important sector of the tourism industry to decline and drive prospective visitors to choose to purchase and vacation elsewhere. For these reasons, MVWC opposes SB 714. Mahalo for the opportunity to testify.

Sincerely,

Imanaka Asato, LLC

Michael L. Iosug, on behalf of  
Marriott Vacations Worldwide Corporation



# Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

SB 714

**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 714**, which imposes the transient accommodations tax on resort fees that are calculated separately from the advertised transient accommodation's rate. Clarifies that the transient accommodations tax shall be calculated based on the gross rental. Amends the formula for the amount of transient accommodations tax to be collected from time shares by increasing the base on which time share occupancy is taxed from one-half of the gross daily maintenance fees paid by the owner and are attributable to the time share unit to one hundred per cent of the gross daily maintenance fees. Specifies that the transient accommodations tax is to be collected from transient accommodations intermediaries who arrange transient accommodations at noncommissioned negotiated contract rates in the same manner as transient accommodations operators. Applies to taxable years beginning after 12/31/2019.

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.

Additionally, MHLA believes this the language in this Bill amending the calculation for TAT on Timeshares will unfairly impact a very specific portion of Hawaii property owners who choose to visit our state on an annual basis and contribute to Hawaii’s economy.

Timeshare units when not used by their owners and rented on a transient basis by non-owners or used for marketing purposes by developers are already subject to the exact same TAT rates as hotel units.

Timeshare owners are Hawaii property owners who have made a long-term commitment to Hawaii by owning Hawaii real estate. They and their guests are dependable, consistent, and stable visitors who bring substantial tax dollars to Hawaii and continue to come even during economic downturns. They pay a yearly maintenance fee including real property taxes, GET and other fees. No other owner of real property in Hawaii is required to pay an occupancy tax to stay in real property that they already own.

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

Kelly Hoen  
Outrigger Waikiki Beach Resort  
Outrigger Reef Waikiki Beach Resort  
Hawaii Lodging and 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.”

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.

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.

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 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.

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For these many reasons, we oppose these measures.

Mahalo.

**SB-714**

Submitted on: 2/12/2019 1:23:55 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.

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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.

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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



TO: Senator Glenn Wakai, Chair  
Senator Brian Taniguchi, Vice-Chair  
Members of the Energy, Economic Development and Tourism Committee

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION (ARDA) –HAWAII  
via Blake Oshiro, Executive Director

RE: SB714 RELATING TO TAXATION - **Opposition**

The American Resort Development Association – Hawaii (ARDA-Hawaii) is the trade association representing the vacation ownership and resort development industries (timeshares) here in Hawaii. We are writing to express our strong **opposition** to Senate Bill (SB) 714 which addresses several issues, but our testimony is focused on the portions of the bill that proposes to amend the transient occupancy tax (TOT) formula.

This is similar to 2018’s Senate Bill 2489 and HB2432, SD1, both of which were shelved last session. It is also similar to this sessions SB382 which recently passed out of this same committee.

SB714’s language would **double** the existing TOT tax rate, which has already seen a 40% increase in the last 4 years. This tax on timeshare owners has already been increased three times. In 2015, Act 93 Session Laws of Hawaii, increased the TOT by two percent (2%). The rate was increased from 7.25% to 8.25% in 2016, then another one percent to 9.25% in 2017. In addition, Act 1 of the Special Session of 2017, increased the rate to 10.25% for the next 12 years.

These increases have already provided the state additional revenues. Based on the recent increases to the tax already on the books as well as a healthy visitor market and occupancy, the **state already realized more than a 20% increase in tax revenues** comparing 2017 to 2016. And the state was on schedule to see the same or more for 2018 (annual 2018 data is not yet available).

According to the Hawaii Tourism Authority, in 2017, Hawaii’s timeshare industry generated “\$87.1 million in state and county taxes, with real property taxes accounting for 45.6% of the total.” This is an increase of \$14.9 million over 2016’s numbers or a 20.6% increase in tax revenue. (2016 total was \$72.2 million). This calculates to about



\$47 million in general excise (GET), transient accommodation (TAT), and TOT, which reflects a 23% increase for state taxes.

<https://www.hawaii tourism authority.org/media/2167/hawaii-timeshare-quarterly-survey-year-end-2017-4-16.pdf>

<http://www.hawaii tourism authority.org/default/assets/File/research/Timeshare/Hawaii%20Timeshare%20Quarterly%20Survey%20Year%20End%202016.pdf>

2018's numbers based on tracking of the first 3 quarters is almost already equivalent to 2017. The 4<sup>th</sup> quarter and annual numbers from HTA for 2018 are not yet available, but by looking at the first quarter (\$27.1 million); second quarter (\$24.5 million) and third quarter (\$29.6 million) tax collected figures for 2018 without the fourth quarter total \$81.2 which is almost near 2017's total \$87.1 million.

<https://www.hawaii tourism authority.org/research/infrastructure-research/>

Therefore, arguments that the timeshare industry and its visitors are not keeping up to pay their fair share of impacts is not borne out by the data. Tax revenues collection totals continue to rise at a very high rate while their total numbers of visitors remains relatively static.

But, it is important to reiterate this tax is unique, was a thoughtful compromise when created, and Hawaii remains to be one of the only jurisdictions to tax a property owners interest for occupying their own property on top of all of the other taxes that are already paid.

Timeshare units, when rented on a transient basis by NON-owners, or used for marketing purposes by developers are already subject to the TAT. The TOT applies when timeshare owners, many of whom are Hawaii property owners under the law, use their property interest and stay at the Hawaii timeshare unit. They pay a yearly maintenance fee including real property taxes, GET and other fees. No other owner of real property in Hawaii is required to pay an occupancy tax to stay in real property that they already own. In fact, Hawaii is the only state to assess a TOT on timeshare owners in the United States.

Our concern lies in the potential negative impact any increase could have on our currently healthy tourism economy. The proposed increases in the TOT are ultimately borne by visitors that could potentially create a drag on our healthy, but always competitive, visitor market. Visitors, especially for our industry where there is a trend to have vacation clubs with choices of destinations, have a multitude of choices for their travel. While the "Hawaii-brand" is always attractive, this must still be balanced and tempered by the associated costs to come and stay here.

Increases to the tax rate will send a potentially negative message to visitors, and especially timeshare owners, that they are being targeted to bear the burden of the increases. Several counties, Kauai, Maui and Hawaii county, have already increased, or are considering increasing their real property tax rates for hotels and timeshare. Thus, our members already pay their fair share of taxes – TOT, real property, and

general excise tax – and any such additional increases create another burden on our visitors here on top of the taxes that they already pay.

Therefore, we respectfully oppose this bill. Thank you.



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.

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,



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

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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.

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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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.

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For these many reasons, we oppose these measures.

Mahalo.

**SB-714**

Submitted on: 2/11/2019 8:23:33 AM

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>
Dr Marion Ceruti	Individual	Oppose	No

Comments:

I oppose SB 714 because it will introduce needless complications into the transient accommodations tax (TAT) laws. It makes TAT calculation worse by repeating the same mistakes that were made when the General Excise Tax law was passed. It is yet another grab of money from people who travel to and inside of Hawai'i. This law will affect not only visitors from the mainland, but also Hawai'i residents visiting other islands. It bites the hand that feeds us. Have we forgotten that tourism is our number one industry? Hawaii already collects too much tax and wastes so much of it that we are in constant need of money for legitimate purposes. Instead of finding more ways to increase taxes, we should spend existing tax money more wisely, such on better roads and drainage systems.

**SB-714**

Submitted on: 2/11/2019 11:06:57 AM

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>
Michelle Kerr	Individual	Oppose	No

Comments:

I oppose imposing the transient accommodations tax on resort fees for hotels or timeshares. Hawaii is getting more and more expensive for tourists which support many, many small businesses state-wide. You are trying to discourage illegal vacation and short-term rentals but this sort of legislation just drives more and more tourists to seek out those accommodations because hotels and time shares are getting too expensive.

I strongly oppose SB714. Quit trying to choke the golden goose for more tax money!



Testimony of

Jeff Wagoner  
Outrigger Enterprises 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:

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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:

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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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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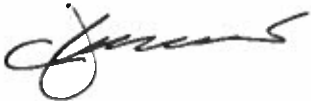
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More specifically and recently, the hospitality industry on Kaua'i and Hawai'i Island are still suffering from last year's flood and Kilauea eruption, respectively. While the tourism economy is slowly recovering on those islands, it will take many 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



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.



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



Testimony of

Angela Nolan  
General Manager  
Marriott Ko Olina Beach Club

Senate Committee on Energy, Economic Development, and Tourism

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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:

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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**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.

**SB-714**

Submitted on: 2/12/2019 7:31:26 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>
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 TAT has increased over the years and is currently taxed at 10.25 percent. This measure adds more 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.

**LATE**

Testimony of

Denise Wardlow/General Manager  
The Westin Princeville Ocean Resort Villas

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.



# Hilton Grand Vacations

February 13, 2019



Testimony of

**Pamela Yagi**

**Hilton Grand Vacations resorts:**

Kalia Suites

Lagoon Tower

Grand Waikikian

Grand Islander

Senate Committee on Energy, Economic Development, and Tourism

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## Hilton Grand Vacations

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## Hilton Grand Vacations

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For these many reasons, we oppose these measures.

*Mahalo,*

**Pam Yagi**

General Manager

808-983-7901

1811 Ala Moana Boulevard, Honolulu, HI 96815

E [pam.yagi@hgv.com](mailto:pam.yagi@hgv.com) W [hiltongrandvacations.com](http://hiltongrandvacations.com)

**SB-714**

Submitted on: 2/13/2019 2:56:33 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>
Robert Ishihara	Testifying for Hokulani Waikiki by Hilton Grand Vacations Club	Oppose	No

Comments:

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The HLTA opposes this measure, for these reasons:

The definition of “resort fees” in both of these measures mirror that of Senate Bill 2699

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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.