Kohala Coast
RESORT ASSOCIATION

February 8, 2021

Representative Sean Quinlan, Chair
Representative Daniel Holt, Vice Chair
House Committee on Economic Development
Hawaii State Legislature

Opposition to HB1314

Dear Representative Quinlan, Representative Holt and Members of the House Committees on Economic Development,

Thank you for the opportunity to provide our testimony on HB1314.

While we understand that the State Legislature is looking to address substantial budget shortfalls, the Kohala Coast Resort Association (KCRA) seriously **opposes** removing the TAT allocation provided to the counties. We are also **opposed** to allowing the counties to create their own separate TAT, as this will create a "pile-on" effect, where both county and state governments become even more reliant on the same industry.

Since the cap in the amount of TAT provided to the counties was instituted in 2012, we have seen the number of direct air seats to Hawaii Island more than double. We therefore believe that the counties should receive a larger portion of the TAT currently collected by the state to be able to adequately address that growth.

However, during the last ten years an ever-greater percentage of TAT has remained in the state's general fund. In 2009, the amount of TAT left after earmarks to HTA, the counties, the convention center, and others was $7.8 million. This equated to 3.7% of all state TAT collections. In 2019, only ten years later, with caps placed on HTA, the counties, and the convention center, and additional specialty earmarks put in place for Turtle Bay, the Honolulu Rail project, and others, the amount that remained in the state general fund was nearly $340 million or **56.6%** of all TAT allocations!

This legislation clearly shows that there needs to be greater cooperation between state and county lawmakers. We applaud Speaker Saiki's comments during his address last week, where he shared that we must break down government silos to chart a new course. We have learned too well during the last year, the perils that ensue when government becomes too dependent on one industry to support our services and infrastructure. Unfortunately, this proposed legislation shows otherwise. Economists speculate that Hawaii's visitor industry will not recover until 2025. Now is not the time for us to shoulder any additional burden.

KCRA is a collection of master-planned resorts and hotels, situated north of the Kona International 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 visitor accommodations available on the Island of Hawai`i. KCRA member properties annually pay more than $25 million in TAT, $25 million in GET and $11 million in property taxes. KCRA members employ more than 5,000 Hawaii Island residents.

Sincerely,

Stephanie P. Donoho

Stephanie Donoho, Administrative Director

PO Box 6991, Kamuela, HI 96743 * (808) 747-5762 * kohalacoastresortassn@gmail.com * www.kohalacoastresorts.com

SUBJECT: TRANSIENT ACCOMMODATIONS, REAL PROPERTY, INCOME, County Surcharge on TAT

BILL NUMBER: HB 1314

INTRODUCED BY: YAMASHITA

EXECUTIVE SUMMARY: Authorizes each county to levy a county surcharge on transient accommodations tax if the county satisfies certain real property tax requirements. Repeals the allocation of transient accommodations tax revenue to the counties and makes conforming amendments. Establishes a residential property owner tax credit and a residential circuit breaker tax credit. Beginning with taxable years after 12/31/2021, gradually implements new individual income tax and corporation income tax brackets and rates in 3-year intervals.

SYNOPSIS: Adds a new section to chapter 46, HRS, to authorize counties to adopt a surcharge on TAT, if it meets the following conditions:

- Raise the property tax rates to no less than $5 per $1000 of assessed valuation in 2022; $7.50 in 2025; $10 in 2028; and $15 in 2031.
- Increase the home exemption for property tax to at least $_____.
- Lower the minimum age needed for the home exemption to _____.

Adds a new section to chapter 237D, HRS, regarding administration of the county surcharge on TAT.

Adds a new section to chapter 248, HRS, to provide for a "skim" of 5% of the gross collections of TAT surcharge that will be retained as State general fund realizations.

Amends section 87A-42, HRS, to delete the language mandating sequestration of the county's share of TAT moneys if the county has not made its required contributions toward Other Post-Employment Benefits for public workers such as pensions (ERS) and health benefits (EUTF).

Amends section 237D-6.5, HRS, to delete the current provision earmarking $103 million annually to the counties.

Adds a new section to chapter 235, HRS, to allow a refundable income tax credit of ___% of the real property tax paid by a qualified taxpayer on no more than the first $1 million of valuation. That section defines "qualified taxpayer" as a resident who pays real property taxes to a county of the State for a residential property that is used as the taxpayer's principal residence during the taxable year.

Adds a new section to chapter 235, HRS, to establish a refundable residential circuit breaker tax credit equal to ___% of the real property tax owed and paid by a qualified taxpayer. This section defines a "qualified taxpayer" as a resident who (1) Is sixty-five years of age or older; (2) Is not a dependent of another taxpayer; (3) Has a total earned income that is less than $20,000; and (4) Owns and occupies a residential property that is used as a principal residence and the assessed value of the residential property does not exceed $1,000,000.

Amends section 235-51, HRS, to phase out the individual income tax by 2030.

Amends section 235-71, HRS, to phase out the corporate income tax by 2030.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This bill represents an effort to phase out the individual and corporate income taxes by changing the focus to real property and transient accommodations taxes. There are still several blanks in the bill so it is not possible to prejudge the revenue impact, but in the trying times we are now in, we expect that the proponents of this bill are eyeing a net tax increase.

A tax increase of any magnitude in Hawaii's fragile economy will, no doubt, have a negative impact as costs soar due to higher taxes. As costs and overhead increase, employers must find ways to stay in business by either increasing prices to their customers or cut back on costs. This may take the form of reducing inventory, shortening business hours, reducing employee hours, or even laying off workers. A tax increase of any magnitude would send many companies, especially smaller ones, out of business taking with them the jobs the community so desperately needs at this time.

We observe that the two major taxes collected by the Department of Taxation are now the general excise tax and the individual income tax. According to the DOTAX's annual report for FY2020, the GET brought in $3.44 billion; the individual income tax brought in $2.36 billion; and all other taxes combined brought in $1.65 billion. To replace the individual and corporate income taxes, the state would have to impose a whopping amount of tax just to stay even. Thus, there will be highly significant economic consequences accomplished by this bill – and most of them will need to come out of something other than the TAT, which is producing barely a trickle of income as the result of COVID-19 decimation of the hospitality industry.

Digested 2/8/2021

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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To: The Honorable Sean Quinlan, Chair;
The Honorable Daniel Holt, Vice Chair;
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director
Department of Taxation

Date: February 10, 2021
Time: 9:30 A.M.
Place: Via Video Conference, State Capitol

Re: H.B. 1314, Relating to Taxation

The Department of Taxation (Department) and offers the following comments regarding H.B. 1314, for your consideration.

H.B. 1314 repeals the allocation to the counties of transient accommodations tax (TAT) revenue and authorizes each county to levy a county surcharge on TAT if the county satisfies certain real property tax requirements. H.B. 1314 creates a residential property owner tax credit and a residential circuit breaker tax credit. Finally, the bill gradually repeals the individual and corporate income taxes.

The income tax credits are each equal to an unspecified percentage of the real property tax owed and paid. The residential property owner credit can be claimed by any resident that pays county real property taxes on their principal residence. The bill defines principal residence as a residence occupied for no less than 270 days during the calendar year. The circuit breaker tax credit is similar, but is limited to taxpayers 65 years old or older with total earned income of less than $20,000. Earned income is not defined in this measure.

First, the Department notes that the bill provides income tax credits to taxpayers statewide and for the statewide repeal of the income tax, but does not require any statewide action on the TAT surcharge or real property increase. Thus, even if not all counties adopt a TAT surcharge or increase their property tax, the revenue losses from the income tax credit and repeal would apply statewide. This means that residents of a county that refuses to increase the real property tax or impose a TAT surcharge would still receive the tax credits and would benefit from the eventual repeal of the income tax.

Furthermore, the repeal of the income tax reduces state revenues, but the TAT surcharge and real property tax increase only supplement county revenues. The bill states that income tax revenue will be replaced by real property revenues, but includes no obvious mechanism for the sharing of county real property tax revenues with the state.

Second, the Department notes that the bill's preamble links the low real property tax rates to the proliferation of non-resident purchase of Hawaii real property. This relationship, if true, is critically important to this bill's efficacy, meaning that demand for Hawaii real estate will lessen if real property tax rates increase drastically. Therefore, it is not certain that increasing the real property tax on non-residents will result increased tax revenue.

Third, the bill purports to reduce residents' overall tax burden and place more of the tax burden on non-residents. The Department cautions that in pursing this goal, the measure may be making the state's finances even more dependent on tourism, consumption, and the whims of non-residents.

As was dramatically demonstrated in 2020, tourism can disappear quickly. Fortunately, the household incomes of the state's residents were stable due to generous unemployment benefits. This stable income level led to stable individual income tax revenue, providing much needed funding as revenue from GET and, particularly, TAT, fell dramatically. This proposal would remove the relatively stable source of revenue, the individual income tax, and increase reliance on the tourism-dependent and volatile TAT.

Over reliance on non-resident investment in real property is similarly risky. The real property tax may be more stable than the TAT, but it is susceptible to capital flight just as the TAT is susceptible to tourist flight. An economic downturn will lower the appetite for real estate investment, lowering the temperature on the real estate market among non-resident investors. As a matter of tax policy, the Department believes that it is in the State's best interest to diversify its sources tax revenue.

Finally, the H.B. 1314 authorizes the counties to adopt a county surcharge on TAT at any time after they meet certain real property tax requirements. The bill requires the Department to collect the surcharge beginning the year following the adoption. If a county were to adopt a surcharge late in the year, the Department would have little time to prepare.

The Department requires approximately six months to make form changes, develop and test technical configurations, and educate taxpayers. The Department requests the deadline for adopting a TAT surcharge be set at least six months prior to the Department's requirement to begin collecting the surcharge.

Thank you for the opportunity to provide comments.

COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 9, 2021

TO: Honorable Sean Quinlan, Chair
House Committee on Economic Development

FROM: Alice L. Lee
Council Chair

DATE: February 10, 2021

SUBJECT: **OPPOSITION TO HB 1314, RELATING TO TAXATION**

Thank you for the opportunity to testify in **OPPOSITION** to this important measure. This measure would repeal the allocation of Transient Accommodations Tax revenue to the counties.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I **OPPOSE** this measure for the following reasons:

1. The bill repeals the allocation of TAT revenue to the counties. The TAT is a vital source of county funding.

2. The counties directly support the very visitor services—such as county beaches and other parks, public safety, streets and highways, and tourism marketing—that generate TAT.

2. With the economy down and all levels of government struggling to maintain vital services, now is not the time to arbitrarily and callously take funds away from the counties.

For the foregoing reasons, I **OPPOSE** this measure.

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DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

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

STATE OF HAWAIʻI
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAIʻI 96810-0150

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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
ON
HOUSE BILL NO. 1314

February 10, 2021
9:30 a.m.
Via Videoconference

RELATING TO TAXATION

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 1314.

H.B. No. 1314 authorizes each county to levy a surcharge on the Transient Accommodations Tax (TAT) if the county satisfies certain Real Property Tax requirements; repeals Subsections 87A-42(d) and 237D-6.5(4), HRS, which allocates $103,000,000 in annual TAT revenues to the counties, provided that the Director of Finance shall deduct the difference of each county's required annual contribution for other post-employment benefits (OPEB) and their actual contribution should their contribution not meet the annual requirement; establishes a Residential Owner Property Tax Credit and Residential Circuit Breaker Tax Credit; and beginning with taxable years after December 31, 2021, implements new individual income tax and corporate income tax brackets and rates which change in three-year intervals.

Regarding the permanent repeal of Subsections 87A-42(d) and 237D-6.5(4), B&F notes that it prefers the language of Administration Proposal BUF-20(21) (H.B.

No. 933), which would temporarily repeal Subsection 87A-42(d) as part of the suspension of the requirement for public employers to make annual required contribution payments for OPEB through FY 25, and BUF-27(21) (H.B. No. 939), which would temporarily decrease the total TAT allocation to the counties from $103,000,000 to $51,500,000 in FYs 22 and 23.

Thank you for your consideration of our comments.

Michael P. Victorino
Mayor

Sananda K. Baz
Managing Director

LATE

OFFICE OF THE MAYOR
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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February 9, 2021

TESTIMONY OF MICHAEL P. VICTORINO
MAYOR
COUNTY OF MAUI

BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

Wednesday, February 10, 2021, 9:30 a.m.
House Conference Room via Videoconference

HB1314, RELATING TO TAXATION
Honorable Sean Quinlan, Chair
Honorable Daniel Holt, Vice Chair
Honorable Members of the House Committee on Economic Development

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Thank you for this opportunity to offer comments in **opposition to HB1314**. We offer the following comments, questions and observations:

- The county surcharge on transient accommodations tax should not be intertwined with real property taxes. One is a tax on sales, the other is a tax on property valuation.
- There is no need for the county to change their real property tax rates due to a change in tax structure by the state.
- Maui County has twelve tax rate classifications with FY 20-21 tax rates ranging from $2.51 to $14.40. Increasing the lowest rate, tier 1 owner-occupied, to $5.00 will result in a 99% tax increase upon residents, which includes retirees. The increase in tax rates proposed by the state will result in a 0% tax rate increase for hotels, short-term rentals and time shares.
- Off setting the increase in real property tax rates with an exemption will create an unfair burden on those residents who have valuable real estate, such as farmers. Exemptions are progressive in nature. Many *kama'aina* families have high land values and relatively low income. This program will negatively impact them.
- It will be difficult to prorate tax returns where income is generated in more than one county.

- Transient accommodation tax has compliance issues. If a county surcharge is implemented, will the counties be able to conduct their own enforcement and be given full access to this tax data?
- Issuing a tax credit at the end of the year may hurt low income property owners as they will be forced to "pre-pay" a large tax when they may not have the money to do so and wait for a credit. Real property tax is very different from income tax. A high real property tax can be levied against someone with no income.
- "Principal residence" and "qualified taxpayer" are loosely defined. This will be problematic for the County of Maui as most property owners and investors would qualify when compared to the County of Maui's home exemption program.
- The County of Maui does not use the State of Hawaii income tax returns for the circuit breaker calculation. The County of Maui uses the federal return which shows all income sources. If the state is going to refund money based upon state income tax returns, tax payers with sheltered income will benefit.
- Will new residents to the County of Maui get income /real property tax credits? Will owners that flip homes get the credit?
- Who will be responsible for compliance with regards to the "occupied for no less than two hundred seventy days"?

We **strongly oppose** this measure, **HB1314**.

OFFICE OF THE MAYOR
DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

Testimony of Derek S.K. Kawakami
Mayor, County of Kauaʻi

Before the
House Committee on Economic Development
February 10, 2021; 9:30 a.m.
Conference Room 312

In consideration of
House Bill 1314 Relating to Taxation

Honorable Chair Quinlan, Chair Holt, and Members of the Committees:

The County of Kaua'i respectfully submits testimony in **opposition** to HB 1314 which authorizes each county to levy a county surcharge on transient accommodations tax if the county satisfies certain real property tax requirements; repeals the allocation of transient accommodations tax revenue to the counties and makes conforming amendments; establishes a residential property owner tax credit and a residential circuit breaker tax credit.

The transient accommodations tax should remain separate and not linked with real property assessment. This measure complicates both tax systems and is unnecessary.

Thank you for your consideration and your continued support of the island of Kauaʻi.

4444 Rice Street, Suite 235 • Līhu'e, Hawai'i 96766 • (808) 241-4900 (b) • (808) 241-6877 (f)

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 312
WEDNESDAY, FEBRUARY, 2021 AT 9:30 A.M.

To The Honorable Sean Quinlan, Chair;
The Honorable Daniel Holt, Vice Chair; and
Members of the Committee on Economic Development,

OPPOSE HB1314 RELATING TO TAXATION

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment.

We strongly oppose this bill and understand our county does as well. We have detailed the Maui Chamber of Commerce's reasons for opposing the bill below.

While we appreciate the state is looking to run more like a business, we don't appreciate that the state is looking to charge the counties 5% to process handling the accounting should the county choose to establish the TAT surcharge. We are also concerned that the state is requiring the counties to increase their real property tax (RPT) to certain levels to achieve this benefit if they want or need it. Given that each county determines their own RPT rate schedule, we don't know what the impact will be for other counties, but the proposed rate schedule compared to Maui County's current RPT rates leaves us with the following concerns:

- We do not know what the exemption for homeowners would be and therefore, do not know what the hit to residents will be;
- The proposed RPT increases for 2022 will impact commercialized residential;
- Over time the proposed RPT increases will impact all business categories without a provision for a tax credit and we see none in this bill;
- Hotels & Resorts, Timeshares, and Short-Term Rentals will be hit by both the RPT and TAT increase down the road, both of which get passed on to visitors and increase the cost of coming to Hawaii, potentially challenging our market positioning in domestic and international markets; and
- This schedule is projected out too far since our recovery is expected to be slow and there are many uncertainties. How are businesses supposed to plan for this?

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

We are **DEEPLY CONCERNED** that the residential RPT credit cannot be applied to a property exceeding $1,000,000. While that number might have been reasonable 5 years ago, we have seen median home prices escalate over the last several years and it is way too low given recent sales. Back in August of 2019, the median home price in Maui was $837,500 and as of January 2021, the median home price in Maui was $980,000 (reported as of 2/9/21), which was considerably higher than Oahu's median home price of $890,000 for the same period. There are significant differences between counties, and this is not the time for the state to be dictating county RPT rates as our markets are clearly very different right now and into the foreseeable future. We have the same concern with the circuit breaker tax credit limit of $1,000,000 as many of our seniors have owned their properties for many years, with many being generational properties whose value in today's market exceeds $1,000,000 and, in some cases, could exceed several million dollars.

Further, if this bill passes it will automatically take away the county's share of TAT on December 31, 2021, which could occur before counties decide if they want to take the TAT surcharge and increase their RPT rates.

Lastly, while we appreciate the help to repeal the state income tax for residents and corporate income taxes for businesses gradually over 2022, 2025, 2028 and 2031 (a schedule that corresponds with the projected RPT increases by the counties), this is a complicated issue that requires further studies to assess the degree to which the repealed taxes will offset increases and the ultimate impacts on residents and businesses.

All counties should be in agreement before considering such a measure and the impacts on residents and businesses statewide should be well understood and presented to the public.

Mahalo for your consideration of our testimony and ask that you please defer this bill.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.