

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS; Allow Condo Associations to Assess Impact Fee on Transient Vacation Rentals

BILL NUMBER: HB 972, SB 1206

INTRODUCED BY: HB by TAM, AMATO, BELATTI, GRANDINETTI, KUSCH, MARTEN, PERRUSO, Kila; SB by MORIWAKI

EXECUTIVE SUMMARY: Authorizes condominium associations and planned community associations located in a zoning district that allows for transient vacation rentals to impose an impact fee on owners who use their units as transient vacation rentals.

SYNOPSIS: Adds new sections to chapter 421J, HRS, Planned Community Associations, and chapter 514B, Condominiums, to allow the board of directors of an association to assess an impact fee on members/owners that use their units as transient vacation rentals.

The impact fees shall be used for:

- 1) Maintenance and repair of common areas;
- 2) Enhanced security measures;
- 3) Administrative costs incurred by the association related to monitoring and regulating transient vacation rentals; and
- 4) Insurance costs associated with an insurance policy procured by the association or board of directors.

Transient vacation rental means “short-term rental home”, short-term vacation rental”, “transient vacation rental”, “transient vacation unit”, or transient vacation use” or any similar term as defined by county ordinance.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This measure provides a source of funding for planned community and condominium associations by targeting owners that are not residing in their units on a full-time basis.

While administration and compliance will be borne by the associations, at least in theory, it should be noted that most associations do not have staff experienced in ferreting out transient vacation use, and getting owners to fess up that units are being used as transient rentals may be problematic.

In addition, although the bill seems to allow for unilateral board action to adopt an impact fee, condominium associations and planned unit development associations exist and take their powers from covenants, conditions, and restrictions (CC&Rs) running with the land on which the development sits. Thus, any board adopting the fee authorized by this bill may be challenged on

Re: HB 972, SB 1206

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the ground that the CC&Rs do not allow for it. And amendment of the CC&Rs is typically a notoriously difficult process requiring the affirmative vote of a supermajority of unit owners.

Digested: 2/2/2025



Cade Watanabe, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Eric W. Gill, Senior Vice-President

February 3, 2025

House Committee on Tourism
Rep. Adrian K. Tam, Chair
Rep. Shirley Ann Templo, Vice Chair

Testimony in support of HB972 hearing on 2/4/25

Chair Tam, Vice Chair Templo and members of the committee,

UNITE HERE Local 5 represents over 10,000 working people in the hotel, foodservice and healthcare industries across Hawaii.

We support HB972. The issue of transient vacation unit (TVU) rentals has rightfully been a contentious debate in our communities. The impacts of vacation rentals units, especially illegal units in residential areas, impact quality of life for residents, negatively impact long-term rental housing for locals, creates conflicts between neighbors, and fail to provide the level of good jobs and services that full-scale hotels provide.

HB972 addresses a stakeholder that is often caught up in the mess of the TVU industry. Condominium association boards must balance the needs of vacation rental unit owners and owner-residents of a condo building, while simultaneously fulfilling their fiduciary duty to the long-term health of the building. Condo association directors need tools to address the inequitable impacts caused by a revolving door of tourists using condo buildings as hotels; condos that may not have been designed to be used as hotels. To some residents the building is their home. To tourists, the building is just a short-term convenience they have no affinity for or long-term stake in.

HB972 provides condo association boards with the power to assess impact fees if the boards find TVU owners cause inequitable wear and tear on common areas, or otherwise drain a disproportionate amount of association resources. It's not fair to non-vacation rental unit owners that they have to pay for the costs created by TVUs. TVU owners should pay their fair share instead of having others subsidize their profit making.

Thank you for this opportunity to testify.



HAWAII LODGING & TOURISM
ASSOCIATION

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

Committee on Tourism
Tuesday, February 4, 2025

HB 972– Relating to Impact Fees

Chair Tam, Vice Chair Templo, and Members of the Committee:

On behalf of the Hawai'i Lodging & Tourism Association (HLTA), the largest and oldest private sector visitor industry organization in the state, representing hotels, resorts, and businesses that support Hawai'i's economy, we support HB972, which would authorize condominium and planned community associations to assess impact fees on unit owners who use their properties as transient vacation rentals (TVRs).

Traditional brick-and-mortar lodging businesses operate under strict regulations, including zoning laws, fire and safety requirements, heavier tax obligations, and labor laws—requirements that many short-term rentals bypass. The unregulated nature of transient vacation rentals places additional strain on residential communities, often resulting in increased maintenance needs, heightened security concerns, and added administrative costs for associations that must monitor and enforce rental rules.

HB972 provides association boards with a practical tool to address these impacts if they see fit. We appreciate that this measure does not propose a mandate—rather, it gives associations the flexibility to assess impact fees based on their specific needs. These fees can help cover:

1. Maintenance and repair of common areas affected by transient use,
2. Enhanced security measures, such as surveillance systems and personnel,
3. Administrative costs for monitoring and regulating TVRs, and
4. Insurance expenses tied to increased liability from transient rentals.

This bill recognizes that every community is different and allows associations to determine whether such a fee structure is necessary. It promotes fairness by ensuring that those benefiting from short-term rental activity contribute to the upkeep and security of the shared environment.

HLTA supports responsible tourism policies that balance economic benefits with the well-being of local residents. For these reasons we support this measure.

Mahalo for the opportunity to provide this testimony.



LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

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February 4, 2025

The Honorable Adrian K. Tam, Chair

House Committee on Tourism

State Capitol, Conference Room 423 & Videoconference

RE: House Bill 972, Relating to Impact Fees

HEARING: Tuesday, February 4, 2025, at 10:30 a.m.

Aloha Chair Tam, Vice Chair Templo, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR provides **comments** on House Bill 972, which authorizes condominium associations and planned community associations located in a zoning district that allows for transient vacation rentals to impose an impact fee on owners who use their units as transient vacation rentals.

Condominium and planned community associations have the authority to regulate and impose uses and rules through Covenants, Conditions, and Restrictions (CC&Rs); fees, assessments or fines through the By-Laws; or create house rules. As such, this measure may not be necessary.

Mahalo for the opportunity to provide testimony on this measure.



HB-972

Submitted on: 2/2/2025 1:03:49 PM

Testimony for TOU on 2/4/2025 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Joy Dillon	Individual	Oppose	Written Testimony Only

Comments:

Aloha, Chair Tam and all members of the Committee on Tourism.

I am adamantly opposed to this bill. Hawaii already has some of the highest, if not the highest, fees on tourists. This bill and a couple of others being considered will discourage tourists from coming here. We are going to price them out of Hawaii with all our fees. This bill could also affect Hawaii residents who travel to other islands to visit relatives, vacations or for medical care. Please do not impose any additional fees on our tourist industry that is so vital to our economy.

Thank you for your consideration,

Joy Dillon, Hilo resident

HB-972

Submitted on: 2/2/2025 4:18:04 PM

Testimony for TOU on 2/4/2025 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Herzog	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Honorable Members of the Committee,

My name is Jessica Herzog. I am retired Realtor, affordable housing advocate, and served for seven years as a Planning Commissioner on Catalina Island, California. For the past five years, I was a tenant and then a resident owner in a condominium in Hawai‘i. Due to the horrible instances of corruption I have witnessed, I am compelled to engage in the legislative processes affecting housing policies. Today, I express my strong opposition to HB972 due to critical oversight and governance issues.

Critical Concerns with HB972:

- 1. Systemic Vulnerability and Personal Experience:** I documented significant financial mismanagement within my condominium association, leading to the recovery of \$333,000 that was embezzled in less than 1.5 years. Despite the recovery, I faced retaliation, including public harassment and false accusations. Our association also wasted over \$550K in management fees paid to an agency that breached their fiduciary duty in many ways. This underscores the necessity for comprehensive legislative reform, not isolated measures.
- 2. Communication Gaps:** The current law under HRS §514B-125 mandates only the physical posting of board meeting notices, which does not adequately inform the large number of non-resident condominium owners about critical decisions due to the lack of required electronic or mailed communications¹. Our condo’s owner occupancy is under 20%, how can we effectively announce meetings on the property and be considered complying with ethical need of informing the membership when you have a board that refuses to send such electronic notice?
- 3. Market Realities and Consumer Impact:**
 - o **Insurance Premiums:** Condominium owners are facing severe insurance premium hikes, with increases ranging from 300% to 1,000%, highlighting the market's volatility². Our association would be better off putting our \$750K annual insurance premium in an interest bearing account; in 10 years we’d have \$9M in cash reserves for insurance claims!
 - o **Industry Financials:** The disparity between premiums collected and claims paid, with \$38 billion collected versus \$14.2 billion paid out over the last decade, reflects deeper systemic issues that need addressing³. This industry needs a major overhaul across the nation.

4. **Structural Deficiencies of HB972:** The bill lacks necessary safeguards such as independent oversight, standardized accounting protocols, whistleblower protections, mandatory electronic notifications, and transparent appeals processes. It does not align with concurrent insurance reform efforts, such as SB1140, SB803, and SB805.

Recommended Comprehensive Approach:

- **Enhanced Transparency and Communication:** Implement mandatory electronic notifications for all significant financial decisions.
- **Governance Reform:** Establish an independent HOA Office with enforcement authority.
- **Consumer Protections:** Introduce caps on insurance premium increases and guarantees on policy renewals.

Recommendation:

HB972, in its current form, does not adequately address the fundamental issues of governance and oversight within condominium communities. It instead legitimizes the continued lack of affordable rental units in neighborhoods already densely populated by hotels, sanctioned and illegal vacation rental options. I fully understand Sen. McKelvey's frustration expressed in the previous Committee hearing regarding insurance issues on 1/31/25, referencing the lack of viable solutions being proposed to handle these systemic issues year after year.

I urge the committee to oppose this bill and advocate for a broader legislative overhaul that provides real solutions to the challenges we face. I request that future committees add more non-industry condo owners, to actually represent the interests of those who directly bear the financial burdens of such laws.

The insurance, property management industries, and association boards have operated with minimal oversight, lacking true checks and balances for too long. It is imperative that we pursue comprehensive reforms that address systemic issues, rather than adopting piecemeal solutions that may inadvertently create new opportunities for abuse.

Mahalo for considering my perspective on this critical issue.

Jessica Herzog
Condo Owner, Oahu
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707.340.5786
www.leewardrepair.com

Footnotes

1. Hawai'i Revised Statutes §514B-125. Notice requirements for condominium association meetings.

2. Civil Beat. (2024). "Condo Owners Are Starting To Feel The Pain From Rising Insurance Costs". Retrieved from <https://www.civilbeat.org/>
3. ProgramBusiness. (2023, August 28). "Hawai'i Wildfires Spur Insurers to Reassess the State's Risk". Retrieved from <https://programbusiness.com/news/hawaii-wildfires-spur-insurers-to-reassess-the-states-risk/>

HB-972

Submitted on: 2/3/2025 10:31:31 AM

Testimony for TOU on 2/4/2025 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathleen Fleming	Individual	Oppose	Written Testimony Only

Comments:

To: Hawaii State legislators

From: Kathleen Fleming

Re: HB972

I am opposed to the passage of HB 972, which would allow homeowner associations to impose impact fees on owners who rent their unit on a short-term basis. If there is to be an impact fee, it is reasonable to expect proof of negative impact.

But the proponents of this bill would find it difficult to produce any. Short term guests in condos have much less of an "impact" on their neighbors than many long-term renters. Visitors to Hawaii are gone all day, spending their hard-earned money on whale watches, snorkel tours, farm tours and dining out, benefitting our economy. Therefore, they make little use of amenities that AOA's provide to owners. They also have only one (rental) car, so they are not trying to park three family cars in the neighborhood. Finally, any "impact" they do have is paid with their occupancy taxes of 17.75%, the highest in the U.S.

Therefore, I submit that, were this bill to be passed, it would be legally challenged by STR owners, who already pay five times as much property tax as their owner-occupant or long-term landlords.

The only group that is represented by this bill are disgruntled condo owners who lived in mixed use developments and have antipathy for visitors, when they should be grateful to those visitors who are the economic engine of our economy. Please don't give this group tyranny of the minority over the majority.

Thank you, Kathy Fleming

(president of my AOA and an STR owner)

HB-972

Submitted on: 2/3/2025 5:17:27 PM

Testimony for TOU on 2/4/2025 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

As a condo owner and director on my condo association's board (where I serve as treasurer), the challenge is *REAL* when it comes to managing the issue of transient rentals. Many fellow condo owners often make supplemental income by offering these types of rental properties, allowing them to survive in an increasingly unaffordable Hawaii.

But the downsides are notable. Many resident condo owners didn't sign up to live in a hotel and the wear on common property is real. Allowing associations to charge an impact fee, where appropriate, would go a long way to alleviating the challenges described. I urge this Committee to SUPPORT this bill!