

STAND. COM. REP. NO.

748

Honolulu, Hawaii

March, 2009

RE: H.B. No. 1404
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 1404 entitled:

"A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX,"

begs leave to report as follows:

The purpose of this bill is to make permanent the general excise tax exemptions provided in Act 239, Session Laws of Hawaii 2007, for amounts received by:

- (1) Submanagers of an association of apartment owners or of certain nonprofit homeowners or community associations in reimbursement of sums paid for common expenses;
- (2) Operators of a hotel from the owner of the hotel or from a timeshare association for employee wage and benefit costs disbursed by the operator; and
- (3) Suboperators of a hotel from the owner of the hotel, timeshare association, or operator of the hotel, for employee wage and benefit costs disbursed by the suboperator.

The Outrigger Hotels, Marriott Vacation Club International, Inc., and Wyndham Worldwide supported this bill. The Department of Taxation and the Tax Foundation of Hawaii submitted comments.

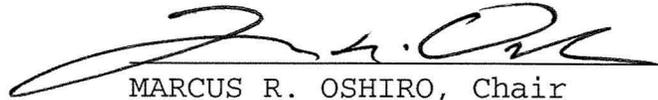
HB1404 HD1 HSCR FIN HMS 2009-2584



Your Committee has amended this bill by changing the effective date to July 1, 2020, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1404, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1404, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Finance,



MARCUS R. OSHIRO, Chair



A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 239, Session Laws of Hawaii 2007, is
2 amended by amending section 4 to read as follows:

3 "SECTION 4. This Act shall take effect on January 1,
4 2008[; ~~provided that this Act shall be repealed on December 31,~~
5 ~~2009, and section 237-24.3, Hawaii Revised Statutes, and section~~
6 ~~237-24.7, Hawaii Revised Statutes, shall be reenacted in the~~
7 ~~form in which they read on December 31, 2007]."~~

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken.

10 SECTION 3. This Act shall take effect on July 1, 2020.



Report Title:

General Excise Tax; Additional Tax Exemptions

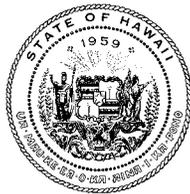
Description:

Makes the general excise tax exemption amendments for timeshare operators and condominium submanagers permanent. Effective July 1, 2020. (HB1404 HD1)



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
TESTIMONY REGARDING HB 1404 HD 1
RELATING TO GENERAL EXCISE TAX

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: MARCH 23, 2009

TIME: 10AM

ROOM: 229

This bill proposes to make the general excise tax (GET) exemptions for reimbursements from managers of condominium associations to submanagers of condominium associations and hotel operators to timeshare associations or suboperators, distributed as employee costs, permanent.

The Department of Taxation takes **no position** on this measure.

This bill merely extends the current common reimbursements exemption from the GET. The State is not currently collecting GET on the gross proceeds discussed in this measure due to the current exemption. If the exemption sunsets on December 31, 2009 as required by current law, an additional \$3.6 million per year would be collected.



American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

March 23, 2009

TO: Senate Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Monday, March 23, 2009
Conference Room 229
10:00 a.m.

RE: **HB1404, HD1 RELATING TO GENERAL EXCISE TAX**

Chair Baker and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units and more planned in the future.

ARDA-Hawaii supports HB 1404, HD1, which makes the GET exemption amendments for timeshare operators and condominium submanagers permanent and may encourage additional timeshare creation in Hawaii.

Timeshare has had consistent occupancy rates, even during tough economic times. This has made our industry a vital partner and a diverse component of the visitor industry in Hawaii.

Thank you very much for the opportunity to offer testimony in support of this measure.

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

March 23, 2009

House Bill 1404, HD 1 Relating to General Excise Tax

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing Marriott Vacation Club International, Inc. (Marriott).

Marriott supports House Bill 1404, HD 1 Relating to General Excise Tax. The legislature passed Act 239 (SLH 2007) which added the following amendments to section 237-24.7:

"§237-24.7 Additional amounts not taxable. In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

(1) Amounts received by the operator of a hotel from the owner of the hotel or from a timeshare association, and amounts received by the suboperator of a hotel from the owner of the hotel, from a timeshare association, or from the operator of the hotel, in amounts equal to and which are disbursed by the operator or suboperator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

"Employee" means employees directly engaged in the day-to-day operation of the hotel and employed by the operator~~[-]~~ or suboperator.

"Hotel" means an operation as defined in section 445-90~~[-]~~ or a timeshare plan as defined in section 514E-1.

"Operator" means any person who, pursuant to a written contract with the owner of a hotel~~[-]~~ or timeshare association, operates or manages the hotel for the owner~~[-]~~ or timeshare association.

"Owner" means the fee owner or lessee under a recorded lease of a hotel~~[-]~~.

"Suboperator" means any person who, pursuant to a written contract with the operator, operates or manages the hotel as a subcontractor of the operator.

"Timeshare association" means an "association" as that term is defined in section 514E-1;"

These amendments were designed to level the playing field with regards to operators and suboperators of hotels and timeshares. This bill seeks to remove the sunset clause of Act 239, and make these provisions permanent. We ask for your support for the removal of the sunset date.

Thank you for the opportunity to present this testimony.



9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

March 23, 2009

To: Honorable Rosalyn H. Baker, Chair
Honorable David Y. Ige, Vice Chair
Senate Committee on Commerce & Consumer Protection

Fr: Robin Suarez, Vice President & Associate General Counsel for Starwood
Vacation Ownership

Re: **HB 1404, HD1- RELATING TO GENERAL EXCISE TAX – SUPPORT**
Senate Committee on Commerce & Consumer Protection
Hawai`i State Capitol, Conference Room 229, 10:00 AM

Aloha Chair Baker, Vice Chair Ige and members of the Committee:

My name is Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, ("SVO"). I am testifying on behalf of SVO in support of HB 1404, HD1, Relating to General Excise Tax.

This bill makes the GET exemption amendments for timeshare operators and condominium sub-managers permanent which will encourage additional timeshare development and ensure that the cost to maintain existing Hawai`i timeshare projects remains reasonable and on par with other competitive markets.

Timeshare projects with their high and consistent rates of occupancy and customer satisfaction should not be discouraged, but seen as a vital part of Hawai`i's tourism industry. In addition to providing traditional resort operations jobs similar to hotel projects, timeshare projects add high skilled and high compensated sales and marketing jobs. As such, timeshare projects represent a valuable and diverse component of Hawai`i's important tourism market.

For these reasons, we respectfully request your favorable support of HB 1404, HD1.

As always, I thank you for the opportunity to share our views on this matter.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Senator Rosalyn Baker
Chair, Committee on Commerce and Consumer Protection

FROM: Gary M. Slovin

DATE: March 23, 2009

RE: **H.B. 1404, H.D.1 – Relating to General Excise Tax**
Hearing: Monday, March 23, 2009 at 10:00 a.m.

Dear Chair Baker and Members of the Committee:

I am Gary Slovin, testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We support H.B. 1404, H.D.1, which makes the GET exemption amendments for timeshare operators and condominium submanagers permanent. This exemption, which exists under the present law, was adopted during the 2007 legislative session as Act 239 Session Laws of Hawaii, 2007. Thus, the exemption sought in H.B. 1404, HD1 would continue the same tax exemption that presently exists in the law.

The exemption applies to certain sums that are transferred from the owner of the properties to the operator of the properties. Included in these sums are the amounts paid that reflect what is owed to employees in the way of salary and benefits. The exemption from tax on these amounts would either take away from the amounts available to be paid to employees both in salary and benefits and, in most cases, actually result in the owner paying sums directly to employees and other persons to whom these sums are due rather than having those sums paid by the operator here in Hawaii. It is to everyone's benefit that those sums be paid by the local operator to the local employees and local vendors. For this reason, the tax exemption was extended in 2007.

March 21, 2009

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Because of the circumstances of the present situation, the passage of this legislation will make things much better for both employees and vendors as well as the owners and the local operators.

Thank you very much for the opportunity to submit testimony.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Taxation of timeshare operators and condominium managers

BILL NUMBER: HB 1404, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends Act 239, SLH 2007, to delete the provision sunsetting this act on December 31, 2009.

EFFECTIVE DATE: July 1, 2020

STAFF COMMENTS: Act 239, SLH 2007, provided that amounts received by a submanager of an association of apartment owners of a condominium property regime or nonprofit homeowners or community association as reimbursement for payment of common expenses shall not be subject to general excise taxation. Act 239 also provides that the general excise tax shall not be applicable to amounts received by a timeshare association and by the suboperator of a hotel from a timeshare association or from the operator of the hotel which are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits. While this provision is scheduled to sunset on 12/31/09, this measure would make it permanent.

Digested 3/18/09