

Honolulu, Hawaii

FEB 08 2013

RE: S.B. No. 500
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Commerce and Consumer Protection and
Tourism and Hawaiian Affairs, to which was referred S.B. No. 500
entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that an association's duty to report to the
Department of Taxation is limited to the relevant
information an association actually receives from a
transient accommodation operator; and
- (2) Limit the fines imposed on an association while also
holding an owner or operator of a transient
accommodation accountable for failure to report.

Your Committees received testimony in support of this measure
from the Department of Taxation, Community Associations Institute
Hawaii Chapter, and three individuals. Your Committees received
comments on this measure from the Hawaii Association of Vacation
Rental Managers.

Your Committees find that concerns have been raised about Act
326, Session Laws of Hawaii 2012 (Act 326), and whether it could
be read to suggest that associations have an affirmative duty to
investigate the actions of association members and determine
whether those members were engaged in any taxable conduct. This



measure amends Act 326 to clarify that associations do not have an affirmative duty to collect information on owners in an association who may be operating transient accommodations. This measure also amends the penalty provisions in Act 326 to a civil fine of up to \$2,500.

Your Committees note that a similar measure, S.B. No. 1186 (Regular Session of 2013), which was heard by your Committees, also amends Act 326 by replacing the criminal penalty provisions with civil fines. Testimony received by your Committees on S.B. No. 1186 indicated that amendments to Act 326 were necessary because existing criminal penalty language in the Act created an inconsistency with section 231-35, Hawaii Revised Statutes. Your Committees further find that the imposition of a \$1,000 civil penalty, as proposed by S.B. No. 1186, is more appropriate than criminal penalties and should be sufficient to bring operators of transient accommodations into compliance with the State's transient accommodations tax law.

Your Committees additionally find that it is appropriate to combine the language contained in this measure with the amendments to the penalty provisions of Act 326 as suggested by S.B. No. 1186, and note that this measure is preferable because of its broader title.

Accordingly, your Committees have amended this measure by:


- (1) Modifying penalties for wilfully failing to supply information required under section 237D- (b), (c), and (e), Hawaii Revised Statutes, established by section 2 of Act 326, from criminal penalties to civil penalties and specifying that the civil penalties shall be imposed no more than once per year;
- (2) Requiring nongovernmental entities to provide the Department of Taxation with the name, address, and contact information of local contacts designated by operators, in addition to the relevant information received by operators;
- (3) Specifying that a nongovernmental entity's duty to report shall be limited to relevant information and the name, address, and contact information of local contacts, if any, received from operators; and



- (4) Amending the purpose section of this measure for clarity.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Tourism and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 500, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 500, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and Tourism
and Hawaiian Affairs,



BRICKWOOD GALUTERIA, Chair

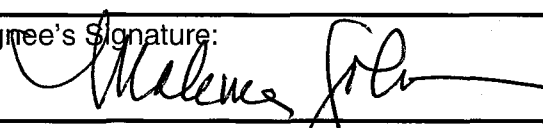


ROSALYN H. BAKER, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:
SB500	CPN/THA,WAM	2-4-12
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
BAKER, Rosalyn H. (C)	✓	
GALUTERIA, Brickwood (VC)	✓	
NISHIHARA, Clarence K.	✓	
SOLOMON, Malama	✓	
TANIGUCHI, Brian T.		✓
WAKAI, Glenn		✓
SLOM, Sam		✓
TOTAL	4	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes

The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Tourism and Hawaiian Affairs
THA

Bill / Resolution No.:* SB 500	Committee Referral: CPN/THA, WAM	Date: 2/4/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GALUTERIA, Brickwood (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)	✓			
HEE, Clayton				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
SHIMABUKURO, Maile S.L.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	6	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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