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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Friday, March 28, 2014
Time: 2:00 p.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2968, S.D. 2, H.D. 1, Relating to Tourism Stimulus Initiatives

The Department of Taxation (Department) appreciates the intent of S.B. 2968, S.D. 2, H.D. 1, to support our State's tourism industry and provides the following comments for your consideration.

S.B. 2968, S.D. 2, H.D. 1, creates a nonrefundable income tax credit equal to an unspecified percentage of construction or renovation costs incurred for qualified hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning on or after January 1, 2015, but not during taxable years beginning after December 31, 2019, and further provides that the costs are pre-certified by the Department of Business, Economic Development and Tourism (DBEDT). H.D. 1 has a defective effective date of July 1, 2050.

Previous committees adopted all of the Department's suggested amendments to the previous version of this bill. The Department appreciates consideration of its suggested amendments and defers to DBEDT regarding the pre-certification requirements of subsection (g).

Thank you for the opportunity to provide comments.

HAWAIʻI TOURISM AUTHORITY

Hawaiʻi Convention Center
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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawaiʻi Tourism Authority
on
S.B. 2968, S.D.2, H.D.1
Relating to Tourism Stimulus INitiatives

House Committee on Finance
Friday, March 28, 2014
2:00 p.m.
Conference Room 308

The Hawaiʻi Tourism Authority (HTA) supports S.B. 2968, S.D. 2, H.D.1, which proposes a tax credit for construction and renovation costs of qualified hotel facilities incurred after January 1, 2015 and before December 31, 2019.

The HTA is tasked with marketing and promoting Hawaii as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding the Hawaii visitor industry product and increasing visitor spending is the improvement and enhancement of the tourism product, which includes the physical infrastructure. As such, the HTA supports S.B. 2968, which provides the private sector with investment incentives to improve hotel facilities.

Thank you for the opportunity to offer these comments.

SUBJECT: INCOME, Hotel construction and renovation tax credit

BILL NUMBER: SB 2968, HD-1

INTRODUCED BY: House Committee on Tourism

EXECUTIVE SUMMARY: This bill establishes a nonrefundable hotel construction and renovation tax credit as a percentage of costs incurred on or between January 1, 2015 and December 31, 2019.

As a policy matter, an evaluation should be done to ascertain the effectiveness of this credit as it existed before, in order to make sure that lawmakers know that is effective.

We also suggest technical amendments. First, the requirement that a project be in compliance with all laws, rules, and regulations is not administrable at best, and should be deleted. Second, in order to prevent unintended leakage, we recommend that the credit be based on basis of the qualified hotel facility improvements as opposed to costs, so there is no double benefit (deduction plus credit) and so as to ensure that the costs are reliably linked to the improvements to real estate.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a nonrefundable hotel construction and renovation tax credit of the construction or renovation costs incurred on or after 1/1/15 and ending before 12/31/19. The credit shall be ___% of the construction and renovation costs and shall not be applicable to costs of construction or improvements for which another income tax credit was claimed for the taxable year. Defines "construction or renovation costs" as those incurred for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

In the case of a partnership, S corporation, estate or trust, association of apartment owners of a qualified hotel facility, time share owners' association, or any developer of a time share project, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. To qualify for the credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Credits in excess of a taxpayer's income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. Requires the taxpayer to receive certification from the department of business, economic development and tourism prior to claiming the credit.

Defines "net income tax liability," "qualified hotel facility" and "taxpayer" for purposes of the measure.

EFFECTIVE DATE: July 1, 2050; applicable to tax years beginning after December 31, 2014

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before 7/1/03. Act 10 also provided that the credit shall revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit for hotel renovation costs incurred in a taxable year.

The original tax credit was promoted as an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at 4% to seemingly offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects that were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

This measure proposes to reestablish a hotel renovation tax credit. However, no evaluation has been done to validate the effectiveness of the prior credit in spurring substantial renovations of hotel resort properties. Thus, it is difficult for taxpayers to know whether they are getting any bang for their bucks.

Some may argue that this credit is necessary to make their upcoming renovations pencil out, but is it the role of government to subsidize private investments? While the credit might be viewed as critical to a taxpayer's project or to the continued renovation of the resort plant, how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few? Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government.

More importantly, if the intent of this measure is to entice hotel owners to undertake major renovations, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction or renovations, either the hotel owner has to be cash rich or have access to the credit markets. As the nation now knows, the credit markets froze beginning in late 2007 and hit a crisis at the end of 2008. The phenomenon was a major reason for the demise of Aloha Airlines and ATA which were highly dependent on credit lines to meet on-going expenditures. When the credit markets froze, there was no way to secure cash advances to meet current liabilities and the two airlines, along with thousands of other businesses, had to shut their doors.

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. For private projects, the permitting and planning process can be accelerated. One developer recently reported that it had taken two years to subdivide two parcels into seven house lots in rural Oahu at which time the planning and permitting department deferred approval citing eight issues to be addressed regarding subdivision approval. The interest on the seller had amounted to more than $500,000 to that point and going forward, both the buyer and seller were shelling out more than $27,000 a month for interest alone, not to mention the other planning and engineering costs. These are costs that could be mitigated if permitting officials would just work with developers and owners in streamlining these requirements. Apparently, officials are reluctant to make decisions in fear that they might make the wrong decision. The result is costly delays while construction work goes begging.

We also offer the following technical comments.

Subsection (h) of the proposed new code section requires a taxpayer to be in compliance with all applicable federal, state, and county statutes, rules, and regulations. This requirement is not administrable and probably is not necessary because the other statutes, rules, and regulations probably will contain their own sanctions for violations. Adding forfeiture of what may be a very large credit to the existing sanctions may produce a penalty grossly out of proportion to any violation that may occur.

Subsection (I) of the proposed new code section defines “construction or renovation costs” loosely as “any costs incurred ... for plans, design, construction, and equipment related to new construction, alternations [sic], or modifications to a qualified hotel facility.” Rather than focusing on costs, we suggest that the credit be awarded on *tax basis* of the new construction, alterations, or modifications to the facility, thereby limiting the credit to costs properly capitalized into the basis of the hotel facility and disallowing double benefits (taxpayer deducts the costs and claims a credit as well).

Digested 3/25/14

Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
SB2968 SD2 HD1
Relating To Tourism Stimulus Initiatives

COMMITTEE ON FINANCE
Friday, March 28, 2014, 2:00pm
Room 308

Dear Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 20,000 local residents and represents over 19,500 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 **supports** SB2968 SD2 HD1 which provides an income tax credit for qualified hotel construction and renovation for taxable years beginning in the period after December 31, 2014, through December 31, 2019.

This Bill would stimulate the revitalization many of the state's aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other sun destinations, especially now when we are seeing a slight softening of our future bookings. Furthermore, hotel construction and renovation would have the added benefit of generating construction and hospitability jobs throughout the state. New properties would have the added benefit of generating additional taxes to support the State and Counties.

We urge you to support Senate Bill 2968 SD2 HD1 as it would provide an important incentive for new investment in our visitor industry.

Thank you for the opportunity to testify.

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HAWAI'I LODGING & TOURISM ASSOCIATION

Testimony of George Szigeti
President & CEO
HAWAIʻI LODGING & TOURISM ASSOCIATION
Committee on Finance
Hearing on March 28, 2014, 2:00 p.m.
Senate Bill 2968 SD2 HD1 Relating to Tourism Stimulus Initiatives

Dear Chair Luke, Vice Chari Nishimoto, Vice Chair Johanson, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawaiʻi Lodging & Tourism Association.

The Hawaiʻi Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai`i's visitor industry. Our membership includes over 150 lodging properties, representing over 48,000 rooms, and approximately 470 other Allied members. The lodging industry alone employs over 38,000 workers across the state of Hawai`i. As part of the broader visitor industry – which employees 1/6 of all workers and 1/5 of those in the private sector, and generated $14.5 billion in visitor spending in 2013 – we represent one of Hawai`i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding Senate Bill 2968 SD 2, which would provide an income tax credit for hotel construction and renovation for taxable years after December 31, 2014, and ending on or before December 31, 2019.

The Hawaiʻi Lodging & Tourism Association **supports** this measure, which we believe could stimulate the revitalization of the state's inventory of aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other destinations because it enables us to keep our lodging properties fresh and appealing, which in turn creates new reasons for visitors to choose Hawaiʻi as their destination of choice. Additionally, hotel construction and renovation would have the added benefit of generating construction and hospitability jobs throughout the state.

Senate Bill 2968 SD2 HD1 can provide an important incentive for new investment in our visitor industry and we urge its favorable consideration.

Thank you for this opportunity to testify.

Hawai`i Lodging & Tourism Association
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Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Wyndham Vacation Ownership

DATE: March 26, 2014

TO: Representative Sylvia Luke
Chair, Committee on Finance
Submitted Via FINtestimony@capitol.hawaii.gov

RE: **S.B. 2968 S.D. 2, H.D. 1 – Relating to Tourism Stimulus Initiatives**
Hearing Date: Friday, March 28, 2014 at 2:00 p.m.
Conference Room: 308

Dear Chair Luke and Members of the Committee on Finance,

We submit this testimony on behalf of Wyndham Vacation Ownership. Wyndham offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **supports S.B. 2968 S.D. 2, H.D. 1,** which provides an income tax credit for hotel construction and renovation. The visitor industry is a very significant part of Hawaii's economy, which creates and supports many jobs for our State. Hawaii's hotel and resort infrastructure is aging, and traditional financing has not spurred necessary renovations and new construction. Providing this tax incentive will not only create new jobs, but will help create and maintain facilities that attract tourists and keep Hawaii's principal industry competitive in the global market.

For the above reasons, we support this measure and respectfully request that the Committee pass it for further consideration.

Thank you for the opportunity to submit testimony on this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Jennifer C. Taylor

1099 Alakea Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840

House of Representatives
The Twenty-Seventh Legislature
Committee on Finance
March 28, 2014, 2:00 p.m.
Room 308

Statement of the Hawaii Regional Council of Carpenters on
SB 2968 SD2 HD1, Relating to Tourism Stimulus Initiatives

The Hawaii Regional Council of Carpenters supports the intent of the Bill, with suggested amendments, to keep a respectable market share in the highly competitive, worldwide visitor industry.

While there are hopeful projections for increased construction activity in Hawaii, financing for the construction and renovation of transient accommodations remains limited. Tax credits will support the feasibility of projects, increasing the possibility that private funding will be secured. Our visitor industry has found the lack of available rooms to be a handicap.

For a clearer implementation path, we offer the following amendment, based on the existing system in Act 270 (2013), to meet goals of the legislature for accountability in the use of tax credits:

"(g) The department of business, economic development, and tourism shall **obtain and certify information as follows**:

A taxpayer claiming the credit under this section shall complete and file with the department of business, economic development, and tourism, through that department's website, an annual survey on electronic forms prepared and prescribed by the department of business, economic development, and tourism. The annual survey shall be filed before June 30 of each calendar year following the calendar year in which the credit may be claimed under this section. The department of business, economic development, and tourism may adjust the due date of the annual survey by rules adopted pursuant to chapter 91. Failure by the taxpayer to submit the annual survey by the due date established under this subsection shall be deemed to be a waiver of the right to claim the credit under this section.

The annual survey shall include the following information for the time period or periods specified by the department of business, economic development, and tourism:

(1) **The names of the taxpayers and qualified hotel facilities thereof claiming the tax credit under subsection (a);**
(2) **The aggregate amounts of all construction or renovation costs per qualified facility per taxable year; and**
(3) **The total amount of the tax credit for each taxable year and the cumulative amount of the tax credit for all years claimed; and**

(4) **Hawaii employment and wage data, including the numbers of full-time and part-time employees employed to perform construction services;** and

(5) **Certification that the laborers and mechanics who performed the work were paid pursuant to HRS chapter 104, which shall apply to construction and renovation work under this section.**

The department of business, economic development, and tourism shall request information in each of these categories sufficient to measure the effectiveness of the tax credit under this section, and may request any additional, non-duplicative, information necessary to measure the effectiveness of the tax credit. "

To clarify compliance with existing chapter 104-2 and chapter 104-3, amend (h) to read:

"(h) To qualify for the tax credit under this section, the taxpayer shall be in compliance with all applicable federal, state and county statutes, rules and regulations. **Pursuant to chapter 104-2 and chapter 104-3, certified copies of all payrolls shall be submitted to the department of labor and industrial relations. To qualify for the tax credit under this section, certification of compliance with chapter 104 by the department of labor and industrial relations shall be required.**"

Testimony, forwarded by the Committee on Tourism, questions the first sentence of (h) above is allowable. If it is not, the proposed amendment, which clarifies implementation, should be added as (h).

Thank you for considering our statement and suggestions.

finance8-Danyl

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 26, 2014 6:14 PM
To: FINTestimony
Cc: phyllis.seitz@ritzcarlton.com
Subject: Submitted testimony for SB2968 on Mar 28, 2014 14:00PM

SB2968
Submitted on: 3/26/2014
Testimony for FIN on Mar 28, 2014 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Ahluwalia	Individual	Support	No

Comments: I represent Ritz-Carlton Hotels and employ 650 ladies and gentlemen on this beautiful Island of Maui. We support SB2968 SD2 HD1 which provides an income tax credit for qualified hotel construction and renovation for taxable years beginning in the period after December 31, 2014, through December 31, 2019. This Bill would stimulate the revitalization many of the state's aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other sun destinations, especially now when we are seeing a slight softening of our future bookings. Furthermore, hotel construction and renovation would have the added benefit of generating construction and hospitability jobs throughout the state. New properties would have the added benefit of generating additional taxes to support the State and Counties. We urge you to support Senate Bill 2968 SD2 HD1 as it would provide an important incentive for new investment in our visitor industry. Thank you for the opportunity to testify. Alex Ahluwalia, General Manager, The Ritz-Carlton, Kapalua

OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

LATE

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair

3/28/2014
Rm. 308, 2:00 PM

SB 2968, SD 2, HD 1
Relating to Tourism Stimulus Initiatives

Chair Luke and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, in support of the intent of SB 2968, SD 2

The promotion of construction activity alone is very important to any economy—it is a significant component of overall economic activity especially in a small island state such as Hawaii. Investment in physical assets in the visitor industry, however, reaps even more benefits than straight construction alone—it provides the means by which future economic activity will take place. The visitor industry cannot be competitive without an attractive, up-to-date physical plan in the form of hotels and recreational facilities.

Construction or renovations of hotels brings more revenues back into the economy, and taxes, because the hotel/tourist industry continues to bring in revenues beyond construction.

However, even with the number of jobs, taxes etc. that a hotel project will provide, the bottom line is that it is very hard to get financing to either rebuild or to build a new hotel facility. Tax credits such as these being proposed, will help a hotel project to either a rebuild or to build a new hotel.

Mahalo for allowing me to testify.

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