DAVID Y. IGE
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DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: Wednesday, February 18, 2015
Time: 9:30 A.M.
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 133, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 133 to support our State's tourism industry.

H.B. 133 creates a nonrefundable income tax credit equal to an unspecified percentage of construction costs incurred for new hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning after December 31, 2015 but not beginning after December 31, 2021.

The Department offers the following technical comments for your consideration.

First, the Department suggests that the definition of "Construction or renovation costs" in subsection (h) be amended to read:

> "Construction cost" means any costs incurred [~~after December 31, 2015,~~] <u>during the taxable year</u> for plans, design, construction, and equipment related to construction of a new hotel facility located in the State."

This amendment ensures that calendar year taxpayers and fiscal year taxpayers are eligible for the credit for the same period of time.

Second, the Department notes that the requirement under subsection (a) that the taxpayer be subject to both Hawaii Revised Statute Chapters 235 (Income Tax) and 237D (Transient Accommodations Tax) may restrict the credit to a smaller number of taxpayers than the

Committee intends. Many hotels are large operations with multiple subsidiaries, and it is possible that the entity incurring construction or renovation costs is not the same entity that operates the hotel as a transient accommodation.

Third, the Department notes that section 3 of the bill and subsection (g) contain different effective dates. The Department recommends Section 3 of the bill be amended to read:

This Act shall take effect upon its approval and shall [~~apply to~~] be available for taxable years beginning after December 31, 2015, and [~~ending before January 1, 2021~~] shall not be available for taxable years beginning after December 31, 2021.

Lastly, the Committee may want to consider adding pre-certification requirements for claiming the credit which may be verified by a State agency that is capable of determining whether the proposed construction is in fact the type of activity the State wishes to incentivize.

Thank you for the opportunity to provide comments.

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB133
Relating to Taxation

COMMITTEE ON TOURISM
Wednesday, February 18, 2015, 9:30am
Room 312

Dear Chair Brower, Vice Chair Ohno 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 19,000 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** HB133 which provides an income tax credit for costs incurred in new hotel construction.

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 an increased amount of competition with new resort locations and other destinations' deeply discounted air/hotel packages. New hotel construction would have the added benefit of generating construction and hospitability jobs throughout the state. Furthermore, new properties would generate additional tax revenues to support the State and Counties.

We urge you to support House Bill 133 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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SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

February 18, 2015

Testimony To: House Committee on Tourism
Representative Tom Brower, Chair

Presented By: Tim Lyons
President

Subject: H.B. 133 – RELATING TO TAXATION.

Chair Brower and Members the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII
HAWAII FLOORING ASSOCIATION
ROOFING CONTRACTORS ASSOCIATION OF HAWAII
HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION
TILE CONTRACTORS PROMOTIONAL PROGRAM
PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII
SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII
PAINTING AND DECORATING CONTRACTORS ASSOCIATION
PACIFIC INSULATION CONTRACTORS ASSOCIATION

We support this bill.

Short and simple, our members are in need of work. Some say the economy is improving. Maybe. But, it certainly has not dwindled down to all sectors. Anything we can do to spur hotels to spend and build will help out hundreds of small contractors and their employees. This will benefit our members, as well as the economy.

Based on the above, we support this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 16, 2015 12:15 PM
To: TOUtestimony
Cc: gm@napilikai.com
Subject: Submitted testimony for HB133 on Feb 18, 2015 09:30AM

HB133
Submitted on: 2/16/2015
Testimony for TOU on Feb 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Gregg Nelson	Napili Kai Beach Resort	Support	No

Comments: Dear Committee on Tourism, I am writing you to encourage approval of House Bill 133. This bill would encourage redevelopment into our aging hotels throughout the State, which in turn will help stimulate increased tourism to Hawaii and improve our overall economy. Thank you for your support. Aloha Gregg Nelson Napili Kai Beach Resort

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hotel construction tax credit

BILL NUMBER: HB 133

INTRODUCED BY: Souki

EXECUTIVE SUMMARY: This bill establishes a hotel construction tax credit as a percentage of costs incurred on or between 1/1/16 and 12/31/20.

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 it is effective.

Also, 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 hotel construction tax credit of the construction costs incurred on or after 1/1/16 and ending before 12/31/20. The credit shall be ___% of the construction costs and shall not be applicable to costs of construction for which another income tax credit was claimed for the taxable year. Defines "construction costs" as those incurred for plans, design, construction, and equipment related to new construction of a new hotel facility.

In the case of a partnership, S corporation, estate or trust 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. 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 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.

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

EFFECTIVE DATE: Tax years beginning after December 31, 2015 and ending before January 1, 2021

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 new hotel construction 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 a similar credit for new hotel construction. 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 construction projects 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, 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 encourage new hotel construction, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction, either the taxpayer 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.

It is questionable whether the proposed credit is refundable or nonrefundable since it is not specified in the measure. If nonrefundable, there is no carryover provision so any credits in excess of liability presumably will be lost.

The measure defines "construction costs" loosely as "any costs incurred ...for plans, design, construction, and equipment related to construction of a new hotel facility in the state." One problem is the inclusion of "equipment," like a bulldozer, that may be retained by the contractor after the construction is complete. Rather than focusing on costs, we suggest that the credit be awarded on *tax* basis of the new construction, thereby limiting the credit to costs properly capitalized into the basis of the hotel facility (for which there are ample federal standards to follow) and disallowing double benefits (taxpayer deducts the costs and claims a credit as well). To ensure that taxpayers do not reap a double benefit from the credit and depreciation, a basis adjustment provision should be added as well.

Digested 2/17/15

OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON TOURISM
Representative Tom Brower, Chair

2/18/2015
Rm. 312, 9:30 AM

HB 133 & HB 572
Relating to Taxation (HB 133) & Tourism (HB 572)

Chair Brower & Members of the Tourism Committee, my name is Max Sword, here on behalf of Outrigger Enterprises Group, in support of HB 133 & HB 572.

The promotion of construction activity 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 plant in the form of hotels and recreational facilities.

Construction of new hotels & renovations of older hotels brings more revenues back into the economy, and taxes, because the hotel/tourist industry continues to bring in revenues beyond construction. Such projects result in higher hotel occupancies, visitor-days, and room rates. It is estimated that 30% of room rates goes back to employee salaries. Both the GET and TAT is paid by the industry thru the 13+ percent assessed each hotel room.

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 in the financial marketplace today. Tax credit such as these being proposed, will help a hotel project to either a build or rebuild.

Mahalo for allowing me to testify.

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HAWAI'I LODGING & TOURISM ASSOCIATION

LATE

Testimony of George Szigeti
President & CEO
HAWAI'I LODGING & TOURISM ASSOCIATION
House Committee on Tourism
Hearing on February 18, 2015, 9:30 A.M.
HB 133 Relating to Taxation

Dear Chair Brower, Vice Chair Ohno, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i 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 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating $14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – 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 HB 133 Relating to Taxation, which provides an income tax credit for costs incurred in new hotel construction

The Hawai'i Lodging & Tourism Association **supports** this measure because it provides incentives to encourage investment throughout the state in constructing new hotels. Investing in our infrastructure is critical to our ability to compete against other destinations on a global scale (i.e. Mexico, Caribbean, etc.). Additionally, hotel construction would have the added benefit of generating construction work and hospitability jobs throughout the state.

This measure can provide important incentives 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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LATE

Testimony of
Gregg Lundberg
General Manager
The Westin Maui Resort & Spa
on
HB133
Relating to Taxation

COMMITTEE ON TOURISM
Wednesday, February 18, 2015, 9:30am
Room 312

Chair Brower, Vice Chair Ohno and Members of the Committee:

As the General Manager of one of the major hotels on island, I would like to support HB133 which provides an income tax credit for costs incurred in new hotel construction.

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 an increased amount of competition with new resort locations and other destinations' deeply discounted air/hotel packages. New hotel construction would have the added benefit of generating construction and hospitality jobs throughout the state. Furthermore, new properties would generate additional tax revenues to support the State and Counties.

We urge you to support House Bill 133 as it would provide an important incentive for new investment in our visitor industry.

Thank you for the opportunity to testify.

Gregg Lundberg
General Manager
The Westin Maui Resort & Spa
808-661-2501

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LATE

February 18, 2015

Representative Tom Brower, Chair
Representative Takashi Ohno, Vice Chair
House Committee on Tourism

Comments and Strong Support of the Intent of HB 133, Relating to Taxation; New Hotel Construction; Income Tax Credit - Provides an income tax credit in an unspecified percentage for costs incurred in new hotel construction

TOU Hearing: Wednesday, February 18, 2015, 9:30 a.m., Conference Room 312

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF is in **strong support of the intent of HB 133**, which provides an income tax credit of an unspecified percentage for costs incurred in new hotel construction for construction costs incurred after December 31, 2015, for plans, design, construction and equipment related to construction of a new hotel facility located in the State. LURF strongly recommends that **the current definition of "Hotel facility" should be amended to include** any building or structure that is used, or contains any room that is used, as a "condominium" as defined under section 514B-3 or "time share unit" as defined under section 514E-1.

BACKGROUND. HB 133 is one of the measures recommended by the Construction Industry Task Force (CITF), established in 2009 pursuant to Senate Concurrent Resolution (SCR) No. 132 (2009) to determine the economic contributions of Hawaii's construction industry and to develop proposals for state actions to preserve and create new jobs in the local construction industry. Portions of this measure were patterned after Act 10 (2001 Special Session).

LURF'S POSITION. LURF strongly **supports the intent of HB 133**, as the bill is intended to provide incentives to boost Hawaii's construction and visitor industries. However, **LURF strongly recommends that the current definition of "Hotel facility" be amended to include "condominiums" and "time share units."**

The implementation of this legislation is necessary and warranted, as substantiated by the following:

- **SCR 132 (2009) CITF Recommendations and Justifications for the Bill.** In 2009, the chair of the CITF's Resort/Hospitality/Private Sector Committee supported a draft bill which was anticipated to be introduced in 2010 (and was conceptually identical to SB 769, SD 1), based on the following justifications:

  1. The hotel and resort tax credits were successful in instigating new construction, renovating existing projects, and generating employment which contributed to the prompt economic recovery after September 11, 2001;
  2. The measure was also a profitable investment for the State and counties of Hawaii;
  3. The State and counties continue to benefit from the residual effects of Act 10 (2001) as the projects and improvements created during this time period continue to generate tax revenues; and
  4. Tax credits somewhat similar to HB 133 were previously implemented by law (Act 10 in 2001), and will therefore be an easier and more timely remedy than creating a new program.

- **2009 Independent Quantitative Economic Analysis by Premiere Realty Advisors of Honolulu.** In 2009, Premiere Realty Advisors of Honolulu was retained to prepare an economic impact study of the CITF's proposal to re-enact Act 10 (2001). Act 10 (2001) differed from HB 133 in the amount of the tax credit (the CITF proposed a 10 percent "refundable" tax credit in Act 10, while HB 133 proposes a tax credit in an unspecified percentage yet to be determined). Despite these technical issues, the two bills are virtually identical in concept, and LURF understands that the estimated economic impact of the bills would also be similar.

  The following is a summary of the analysis prepared by Premiere Realty Advisors, estimating the impact on this State resulting from the CITF proposal to reenact Act 10 (2001) as a 10% "refundable" tax credit for the period from 2010 through 2015:

  - Induced construction spending estimated at $2,002,500,000.
  - Net tax cost estimated at $46,725,000.
  - Induced jobs estimated at 23,630.
  - Net tax cost per induced job estimated at $1,977.

CONCLUSION. As evidenced by the findings of the CITF and independent realty advisors, the investment incentive provided by this measure are anticipated to assist greatly with the revitalization of both the visitor and construction industries in Hawaii. LURF therefore believes that the implementation of this legislation is necessary and warranted, and that the positive results of this measure (i.e., to implement the land use and tourism plans of the state and counties and to improve the quality of Hawaii's tourism industry and properties), would be well satisfied and furthered by its enactment.

Based on the above, LURF respectfully requests that HB 133 and LURF's proposed amendment to include "condominiums" and "timeshares," be favorably considered and approved by your Committee.

Thank you for the opportunity to provide our **comments, requests for amendment and strong support for the intent** of this bill.