

SB1031

Measure Title: RELATING TO TRANSIENT ACCOMMODATIONS.

Report Title: Transient Accommodations; Owners and Operators; Reporting Requirements; Penalties

Description: Amends Act 326, Session Laws of Hawaii 2012, by (1) Replacing the term "local contact" with "on-island agent"; (2) Defining the term "on-island agent"; (3) Clarifying that an association's duty to report to DOTAX is limited to the relevant information an association actually receives from a transient accommodation operator; (4) Amending penalties imposed on associations for failure to report; and (5) Repealing the sunset date.

Companion: [HB803](#)

Package: None

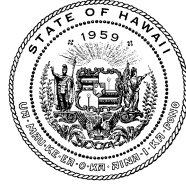
Current Referral: CPN/TSI, WAM

Introducer(s): BAKER, ESPERO, KEITH-AGARAN, NISHIHARA, WAKAI, Ihara

Sort by Date		Status Text
1/28/2015	S	Introduced.
1/28/2015	S	Passed First Reading.
1/28/2015	S	Referred to CPN/TSI.
2/2/2015	S	Re-Referred to CPN/TSI, WAM.
2/10/2015	S	The committee(s) on CPN/TSI has scheduled a public hearing on 02-17-15 9:10AM in conference room 229.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

To: The Honorable Gilbert Kahele, Chair
and Members of the Senate Committee on Tourism and International Affairs

The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Tuesday, February 17, 2015
Time: 9:10 A.M.
Place: Conference Room 229, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 1031, Relating to Transient Accommodations

The Department of Taxation (Department) has concerns regarding S.B. 1031 and provides the following information and comments for your consideration.

S.B. 1031 amends Act 326, Session Laws of Hawaii 2012 (Act 326), by amending the penalty for associations who fail to report relevant information to the Department. This measure also changes the definition of "local contact" to "on-island agent," and changes the requirements such a person must meet. Finally, this measure repeals Act 326's sunset date.

The Department notes that the purpose clause of Act 326 states concerns regarding operators of transient accommodations failing to comply with applicable state and county laws. Compliance with general excise and transient accommodations tax law is only one part of the problem arising from transient accommodations. The Department notes that many of the other laws, such as those relating to land use, rental of real property, and other consumer protection laws, are outside the purview and expertise of the Department.

While the Department supports the Legislature's effort to address illegal transient accommodations, the Department believes that the provisions of Act 326 are insufficient to adequately address all issues raised by illegal transient accommodations, and therefore, Act 326 should not be made permanent. For example, the relevant data that the Department had been required to collect under Act 326 is not related to tax collection and has been of limited use for

the Department. For these reasons, the Department supports a more comprehensive approach to addressing transient accommodations, such as the provisions set forth in S.B. 1237.

Thank you for the opportunity to provide comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

February 17, 2015

The Honorable Gilbert Kahele, Chair
and Members of the Committee on Tourism
and International Affairs
The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Commerce
and Consumer Protection
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Kahele, Baker, and Members:

SUBJECT: Senate Bill No. 1031
Relating to Transient Accommodation

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 1031, which amends Act 326, Sessions of Law of Hawaii 2012, and replaces the term "local contact" with "on-island agent," and requires relevant information be reported to the State Department of Taxation (DOTAX) with imposed penalties for failure to report.

This Bill will provide an association or nongovernmental entity with the name, address, and contact information of the "on-island agent," and will make available to regulatory agencies additional information that will add to the preponderance of evidence necessary for effective enforcement against the operators of illegal transient vacation rentals.

The DPP recommends amendments to two areas of the Bill to enhance its overall objectives:

The Honorable Gilbert Kahele, Chair
and Members of the Committee on Tourism
and International Affairs
The Honorable Rosalyn H. Baker, Chair
and Commerce and Consumer Protection
Hawaii State Senate
Hawaii State Capitol
Re: Senate Bill No. 1031
February 17, 2015
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1. The civil penalty for willfully failing to provide DOTAX with the required "on-island agent" information be assessed at a higher rate to leverage compliance; and
2. Delete subparagraph (h) (2) to Section 2 thereby limiting the "on-island agent" to a representative licensed or registered under Chapter 467.

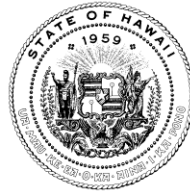
Thank you for this opportunity to testify on Senate Bill No. 1031.

Very truly yours,



George I. Atta, FAICP
Director

GIA:fmt
SB1031-TransientAccommodations-mf



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE**

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

AND

**TO THE SENATE COMMITTEE ON
TOURISM AND INTERNATIONAL AFFAIRS**

**TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015**

**TUESDAY, FEBRUARY 17, 2015
9:10 A.M.**

**TESTIMONY ON SENATE BILL NO. 1031
RELATING TO TRANSIENT ACCOMMODATIONS**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
TO THE HONORABLE GILBERT KAHELE, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND TO THE HONORABLE J. KALANI ENGLISH, VICE CHAIR,
AND MEMBERS OF THE COMMITTEES:**

The Department of Commerce and Consumer Affairs ("Department")
appreciates the opportunity to testify on Senate Bill No. 1031, Relating to
Transient Accommodations. My name is Daria Loy-Goto, Complaints and

Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO has serious concerns with the bill.

Senate Bill No. 1031 amends Act 326, Session Laws of Hawaii 2012, to substitute the term "on-island agent" for "local contact", define "on-island agent", clarify a nongovernmental entity's duty to report information to the Department of Taxation, amend the penalties for failing to report information, and repeal the Act's sunset date.

As background, the definition of "local contact" has been an ongoing issue since the enactment of Act 326 in 2012. During the 2013 legislative session, the Real Estate Commission ("Commission"), RICO, and industry worked cooperatively, but unsuccessfully, on a bill to amend the definition and Senate Bill No. 41 S.D.1 was the result of that effort. RICO defers to the Commission on the policy issue of whether an "on-island agent" should be required to be licensed under Chapter 467, Hawaii Revised Statutes ("HRS"), but has the following serious concerns with the bill:

1. The presumption language on page 7, lines 9-14, is highly problematic. Senate Bill No. 1031 requires that an on-island agent not licensed under Chapter 467, HRS, will be presumed to be acting as a custodian or caretaker. The presumption would render any enforcement of the definition of "on-island agent" meaningless because any "on-island agent" not licensed under Chapter 467, HRS, will be deemed to be a custodian or caretaker, and would, therefore, automatically comply with the definition of "on-island agent". It is not clear whether this

circular language was intended. If the Committees intend to pass out Senate Bill No. 1031, RICO requests that the presumption language be removed from the bill.

2. The bill's language regarding custodian or caretaker on page 7, lines 3-6, is confusing because it not only cites §467-1, HRS, for the definition of "custodian or caretaker", but it also unnecessarily references additional language from §467-1, HRS. To the extent that the added language may not be entirely consistent with the current definition in §467-1, HRS, RICO would have difficulty enforcing contrary or unclear language. As a result, if the Committees intend to pass out this bill, RICO requests that the language on page 7, lines 4-6, be deleted, so that only the reference to §467-1, HRS, on line 3 remains.

3. In conjunction with the foregoing concerns about the reference to "custodian or caretaker", further clarification is needed in §467-1, HRS, if the bill passes out of the Committees. The following amendment to §467-1, HRS, would more explicitly define "custodian or caretaker" and, as a result, strengthen RICO's ability to enforce violations of Chapter 467, HRS, based on conduct proscribed in Chapter 237D, HRS.

"'Custodian or caretaker' means any individual, who for compensation or valuable consideration, is employed as an employee by a single owner and has the responsibility to manage or care for that real property left in the individual's trust; and for whom the single owner is required to provide workers' compensation insurance and to deduct Federal Insurance Contributions Act and withholding taxes as prescribed by law; provided that the term "custodian" or "caretaker" shall not include any individual who leases or offers to lease, or rents or offers to rent, any real estate for more than a single owner; provided further that a single owner shall not include an association of owners of a condominium, cooperative, or planned unit development."

4. Senate Bill No. 1031 also contains language that RICO would ask the

Committees to clarify, should they decide to move this measure forward in its current form. First, language on page 6, lines 1-3, regarding an operator's designation of an on-island agent, is inconsistent with prior language on page 3, lines 17-18. RICO offers the following revision on page 6, lines 1-3, in order to help with this inconsistency:

information required under this subsection, or operator who fails to designate an on-island agent as required in this section,

Also, Senate Bill No. 1031 repeats that an on-island agent must reside on the same island as the transient accommodation. For example, the requirement is contained in language on page 3, lines 16-19, but reiterated again on page 5, lines 18-20. RICO asks the Committees to consider deleting the second reference on page 5 because it appears to be unnecessary.

In addition, language on page 4, line 18, is awkward and should read as follows:

relevant information[7] provided to it by its members,

Again, should the Committees decide to move this measure forward, RICO would ask that the clarifications listed above be given full consideration.

Thank you for the opportunity to testify on Senate Bill No. 1031. I will be happy to answer any questions the members of the Committees may have.



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David Y. Ige
Governor

Ronald Williams
Chief Executive Officer

Testimony of
Ronald Williams
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. No. 1031
Relating to Transient Accommodations
Senate Committee on Commerce and Consumer Protection
Senate Committee on Tourism and International Affairs
Tuesday, February 17, 2015
9:10 a.m.
Conference Room 229

The Hawaii Tourism Authority opposes S.B. No. 1031, which proposes various amendments to Act 326, Session Laws of Hawaii 2012, which attempted to regulate transient accommodations by requiring the designation of a local contact and assigning various regulatory duties to the Department of Taxation. S.B. 1031 amends "local contact" with "on-island contact" and proposes amendments to clarify information required to be reported to the Department of Taxation.

We prefer, instead, S.B. 1237, which takes a more comprehensive approach to regulate transient vacation rentals.

Mahalo for the opportunity to offer these comments.



Condominium Rentals HawaiiTM

February 16, 2015

Mahalo for the opportunity to submit testimony in SUPPORT of SB1031.

Thirty plus years ago I operated our vacation rental business with only a business and GET license. For various reasons the State decided that to offer vacation rentals in Hawaii companies such as ours had to become real estate companies. At that time properties being offered for rent by individual owners was almost unheard of.

Roll the clock ahead three decades and rentals by owners have grown to be a very significant portion of the vacation rental market. With this growth has come a list of challenges that did not exist when legislators first introduced the idea of having vacation rentals fall under real estate law.

In 2012, ACT 326 became law in an attempt to address some of the issues surrounding owner rentals. A requirement to have a "local contact" on island was added for consumer protection and several requirements, including adding the GET license number to all on line advertising was added to assist the DOT in ensuring tax remittances where made.

The requirement for local contact has led many off island property owners to believe that by contracting with their housekeeper or others that they are in full compliance with Hawaii law. The majority of these individuals acting as the on-island contact are in most cases, unknowingly, violating Hawaii real estate law by acting as a manager while not being licensed or a caretaker.

The November 2013 Real Estate Commission Bulletin stated:

Real estate licensees listing and selling investment or rental properties should disclose to potential buyers and the licensees representing them, **THE REQUIREMENT** for an on-island agent if the buyer of a rental property does not or will not reside on the island where the property is located.

While the Hawai'i Association of Realtors may not support SB1031 as it may place licensees in jeopardy of aiding and abetting unlawful actions, it does not change the position of the Real Estate Commission that this already is the law. In addition, their members do not need to get involved in vacation rentals unless they are willing to understand all the complexities of this industry.

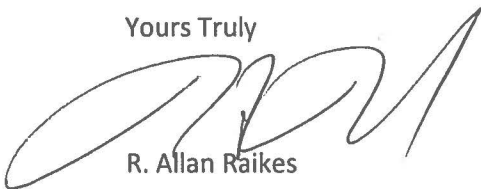
In its current form, ACT 326 has been of little use in assisting the DOT with collections. One possible solution, should SB 1031, pass, would be to add a section that would require the on-island agent to submit to DOT an annual report showing the revenue reported on the 1099 along with the number of nights a property was occupied (less owner personal and family use), the average daily rate and the GET number. Properties of similar type would be lumped together so that it would quickly become apparent when the ADR for one particular property is well below that of similar properties. This would give DOT a starting point when looking for those who may not be reporting all of their income.

I am aware that there are a significant number of individual property owners who are opposed to most regulation on their ability to rent their own properties. I have read how they will not be able to rent any more or have to pay 20%-50% of their income to property managers thus driving them to sell their property.

These are simply over statements. Nothing in this Bill states they cannot continue to rent their property. While the percent figures are in the range of what is charged when using the full services of management companies, they are not when the owner procures their own bookings. In my immediate area I am aware of fees starting at \$25/month and going up to 10%. It will vary depending on the services the owner desires.

I suspect most of those opposed are complying, or believe they are complying with Hawaii law. Unfortunately there are many others who are not quite as upstanding as these individuals which is why this Bill needs to pass.

Yours Truly

A handwritten signature in black ink, appearing to be 'R. Allan Raikes', written over a horizontal line.

R. Allan Raikes

President

February 17, 2015

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection

The Honorable Gilbert Kahele, Chair

Senate Committee on Tourism and International Affairs

State Capitol, Room 229

Honolulu, Hawaii 96813

RE: S.B. 1031, Relating to Transient Accommodation

HEARING: Tuesday, February 17, 2015, at 9:10 a.m.

Aloha Chair Baker, Chair Kahele, and Members of the Joint Committees:

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **opposes** S.B. 1031 which amends Act 326, Session Laws of Hawaii 2012, by (1) Replacing the term "local contact" with "on-island agent"; (2) defining the term "on-island agent"; (3) Clarifying that an association's duty to report to DOTAX is limited to the relevant information an association actually receives from a transient accommodation operator; (4) Amending penalties imposed on associations for failure to report; and (5) Repealing the sunset date.

In 2012, the Legislature passed Act 326, which required any operator of a transient accommodation to designate a local contact residing on the same island as the transient accommodation, amongst other requirements. The law was placed into Hawaii Revised Statutes ("HRS") Chapter 237D, the transient accommodation tax section. However, this issue has additional layers of complexity, as there are other HRS Chapters that this issue affects:

Real Estate Licensee – HRS 467

A property owner can sell, buy, lease, and manage his/her own property without a real estate license.

Real Estate Licensee – HRS 467

A property owner can hire a custodian or caretaker to manage or care for his/her property. The "custodian" or "caretaker" doesn't need a real estate license so long as he/she is employed by the owner. The exemption is limited to managing one property.

Residential Landlord Tenant Code – HRS 521

A property owner who rents or leases their own property must comply with Hawaii's Residential Landlord-Tenant Code. Among other things, the Code requires owners and landlords who reside outside of the state or on another island to designate an on-island agent to act on the owner's behalf. The designated on-island agent must be licensed if engaging in any activity for which a real estate license is required.

State & County Tax Laws – HRS 237D

A property owner must comply with applicable state and county tax laws. State tax law requires persons who operate transient accommodations to designate a local contact who resides on-island, in case of an emergency or natural disaster, or to answer any questions, concerns, or property issues that arise about the transient accommodation.

Additionally, this measure changes the “local contact” under HRS 237D to on-island agent. An on-island agent must then be either a real estate licensee or custodian or caretaker (employee). HAR has concerns that this will place real estate licensees in jeopardy for aiding and abetting unlawful actions, as it relates to the advertising and management of illegal, nonconforming, or unpermitted transient accommodations.

Finally, while we believe S.B. 1237 may be a preferable version to begin establishing licensing requirements, we note that the pursuant to HRS 26H-6, S.B. 1237 may require a sunrise analysis by the Auditor prior to creating a new regulatory program of any unregulated profession or vocation.

HAR further notes that in order to ensure no unintended consequences, HAR respectfully requests that a task force be created with various interested parties to come to a workable solution, rather than a fashion of piecing different statutory laws from various HRS Chapters.

Mahalo for the opportunity to testify.



February 17, 2015

The Honorable Gilbert Kahele, Chair
and Members of the Committee on Tourism
and International Affairs
The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Commerce
and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S. B. 1031, RELATING TO TRANSIENT ACCOMMODATIONS.

Aloha Aloha Chair Kahele, Chair Baker, and Members of the Committees:

I am Dan Monck, here to testify on behalf of the Hawai'i Association of Vacation Rental Managers ("HAVRM").

This letter is written in **SUPPORT of SB 1031.**

The Hawaii Association of Vacation Rental Managers, representing tourism professionals providing transient accommodations on Hawaii's four major islands, believes that the problem of illegal vacation rentals poses a serious challenge to the State's communities and its Tourism industry, and that this challenge needs to be meaningfully addressed.

SB 1031 adroitly accomplishes this objective.

In the very early 1980's, in the interests of Hawaii's growing Tourism industry, consumer protection and public safety, the State of Hawaii mandated that vacation rental firms be licensed under Hawaii's Real Estate Code.

The objective of this decision was to insure the education, knowledge, and professional standards necessary to provide rental services to Hawaii visitors, and to the owners of the Hawaii rental properties existed. This specific knowledge and standards of conduct are only insured through the Real Estate licensing process, and the associated requirement of continuing education of this license. This decision also provided consumers and property owners the protection of the Real Estate Recovery Fund in the event of an unscrupulous licensee.

Over the past 35 years, this decision's wisdom has proven tremendously successful for the State of Hawaii and our Tourism industry.

The issue of illegal rentals is a serious problem, requiring a serious solution. **SB 1031 delivers that serious solution by permitting the collective strengths of the State's departments to be brought to bear upon this serious problem in an orchestrated manner utilizing existing State organs and processes.**

Importantly, the DCCA's, Real Estate Commission's, and Counties' enforcement responsibilities are not confused or compromised by SB 1031. Also, SB 1031 assures the training, skill sets, and protections necessary for proper property rental activities exist in the State such as Fair Housing, that an appropriate on-island agent is in place to support Hawaii visitors when necessary, Trust Accounts exist and are respected for customer and property owner monies managed by a Fiduciary with the oversight of the DCCA, and visitor fraud protection is secured through the Real Estate Recovery Fund at no cost to the State. And in conjunction with these important protections, the correct rental revenue and tax identification are provided to the State **maximizing Hawaii Tax collection by SB 1031.**

SB 1031 provides a straightforward approach where regulatory and enforcement responsibilities are clear and understood, so that this problem may quickly be brought under control.

Adoption of this SB 1031, will have significant positive effects upon our Tourism industry, public safety, consumer protection, Hawaii's supply of affordable housing, community tranquility, our Hotels, and our many Hawaii employees. We recommend SB 1031 be **PASSED** by the Tourism Committee.

The committee may wish to consider two enhancements to SB 1031.

- 1) ACT 326 required the Tax identification number to be displayed in any web advertisement of a Transient Accommodation. Requiring the On-Island Real Estate Brokerage or employee of the owner to be identified with contact information in the advertisement as well would assist neighbors and associations in knowing who to call in the event of an issue. It would also be very helpful to the Counties and State agencies in their regulatory efforts in knowing who to call in Hawaii directly from the advertisement.
- 2) We believe the most effective and efficient strategy to address the problem of illegal rentals is from the beginning of the regulatory process. Trying to subdue this problem with the State and Counties "chasing" thousands of suspects is inefficient and destined for failure.

We would suggest for consideration putting in place with the Department of Taxation a "report mechanism" where people who believe an illegal rental is taking place contrary to State Tax law, neighbor, association, or a professional organization, could identify this rental to the Department of Tax. Should the rental be found not to be in compliance with State Tax regulations, a "whistle blower" fee would be awarded to the identifier. The amount of Tax recovered by a program of this nature would dwarf any incremental cost the Department of Tax might realize due to this program.

While the illegal operators have demonstrated to date they have no fear of the State regulators, they would have grave concerns about being identified to the State by someone closely aware of, and perhaps impacted by, their illegal operations.

Mahalo,



Dan Monck
President
Hawaii Association of Vacation Rental Managers
www.HAVRM.org

Real Estate Commission Bulletin

Off-Island "Agent" – Licensee or Non-licensee?



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When Act 326, Session Laws of Hawaii 2012, was passed, the Real Estate Branch received many calls from licensees who did not understand Act 326, especially the "Local Contact" identified within this Act, and whether or not this "Local Contact" fulfills the off-island agent requirement as stated in Hawaii Revised Statutes ("HRS") Chapter 521, the Residential Landlord-Tenant Code. If you are offering to rent property owned by an off-island owner, an on-island agent is required by HRS §521-43(f), the Residential Landlord-Tenant Code. "Agent" is not defined in Chapter 521, HRS.

The "Local Contact" defined in Act 326 pertains to HRS Chapter 237D, Transient Accommodations Tax. The "Local Contact" individual is an on-island individual who must register with the Department of Taxation to assist in the collection of taxes regarding the rental property. Act 326, and its "Local Contact" is not necessarily the individual who may act as an on-island agent for off-island rental property owners.

"Agent" is also not defined in HRS Chapter 467, the real estate brokers and salespersons licensing law. As used in HRS 521, "off-island agent" is not defined in Chapter 467. For an off-island property owner, landlord, trustee, or a person with the power of attorney from the owner, who is offering to rent Hawaii property, if the on-island agent is also involved in real estate activities, this on-island agent needs a real estate license.

An "on-island" agent may be one of the following:

- a) Hawaii-licensed real estate broker or salesperson; or
- b) "Custodian or caretaker" – "custodian or caretaker" is one of the exceptions to requiring a real estate license, and is defined in Chapter 467, HRS, and reads, "Custodian or caretaker" means any individual, who for compensation or valuable consideration, is employed as an employee by a single owner and has

the responsibility to manage or care for that real property, left in the individual's trust; provided that the term, "custodian" or "caretaker" shall not include any individual who leases or offers to lease, rents or offers to rent, any real estate for more than a single owner; provided further that a single owner shall not include an association of owners of a condominium, cooperative, or planned unit development." (emphasis added)

The "custodian or caretaker" exemption is an unlicensed individual, who for a single owner, manages or cares for the single owner's property. The single owner may be an individual or an entity. The single owner must employ the custodian or caretaker. Information on employing another individual may be obtained from the State Department of Taxation and the State Department of Labor and Industrial Relations. There will likely be other considerations when employing the custodian or caretaker such as requirements for unemployment insurance, workmen's compensation insurance, temporary disability insurance, vacation and sick pay, etc. Single owners may own more than one real property. If the single owner is an entity, however, the entity employing a custodian or caretaker must be licensed as a real estate broker or hire a licensed real estate broker to manage the single owner's property. The exceptions to having a real estate license as listed in HRS §467-2 are for individuals, NOT entities.

Real estate licensees listing and selling investment or rental properties should disclose to potential buyers and the licensees representing them, the requirement for an on-island agent if the buyer of a rental property does not or will not reside on the island where the property is located.

The on-island agent may be a non-licensee or a real estate licensee. Again, depending what the non-licensee on-island agent DOES will determine if the on-island agent requires a real estate license.



The Senate
The Twenty-Eighth Legislature
Regular Session of 2015

To: Senators Gilbert Kahele, Chair & Kalani English, Vice Chair of TSI
Senators Rosalyn Baker, Chair & Brian Taniguchi, Vice Chair of CPN

Date: February 17, 2015

Time: 9:10 a.m.

Place: Conference Room 229
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: Senate Bill 1031, Relating to Transient Accommodations

Chairs Kahele and Baker, Vice Chairs English and Taniguchi and Members of the Committees:

Rental By Owner Awareness Association (RBOAA) is a non-profit entity incorporated in Hawaii that speaks for hundreds of very small business that consists of law-abiding Hawaiians and non-Hawaiians who rent their homes out to visitors.

RBOAA would like to voice our **OPPOSITION** to S.B. No. 1031.

We understand the intent of the bill is to address the sunset clause, penalties associated with the AOA that we do support but we **STRONGLY** oppose the deletion of local contact.

In 2016, we all spent a large amount of time working on HB 2078, currently referred to as TAX Act 326. It is was only implemented 1 year ago and it clearly states on page one of DOT Announcement No, 2013-02 dated 3.4.2013 the definition of a local contact.

“Designate a local contact residing on the same island as the transient accommodation. The local contact can be any individual residing on the island or any entity with its principal place of business on the island. The contact need not be a licensed real estate broker or be accredited in any other matter.”

We oppose the addition of the term “on-island agent”. The definition in the bill requires a licensed professional or a caretaker/custodian. **Which is in conflict with the current laws.**

The real estate code clearly permits an owner to manage, lease, rent or sell his own property, regardless of residency.

We propose the attached amendment which would build on the existing laws in which states:

The legislature wishes to clarify that all owners of property who wish to offer transient accommodations must either.

1. Be an owner/operator who self manages, rents leases and designates a local contact; or
2. Employ a custodian/caretaker; or
3. Engage the services of a real estate licensee

We believe the proposed changes will make ACT 326 consistent with both the real estate code and the landlord tenant act.

It will also make clear the 3 options available to owners of the TVR’s as there well as for all other landlords.

Mahalo for the opportunity to submit our testimony.

Respectfully,

Alicia Humiston
President

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 1. Act 326, Session Laws of Hawaii 2012, is

Amended as follows:

1. By amending section 1 to read:

“SECTION 1. The legislature finds that although many operators of transient accommodations are in compliance with applicable state and county laws, there are sizeable number of operators who are not. Failure to comply denies the State and counties of the transient accommodations taxes and general excise taxes they are due.

The legislature wishes to clarify that all owners of property who wish to offer transient accommodations must either: 1. Be an owner-operator who self manages, rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or 3. Engage the services of a real estate licensee.

The legislature further finds that section 521-43(f), Hawaii Revised Statutes, as part of the landlord-tenant code, requires a landlord who lives out of the State or on a different island to designate an agent who resides on the same island where the rental unit is located to act in the landlord's behalf. **The sole qualification of the agent is residency on the same island.**

Section 467-2, Hawaii Revised statutes, clearly permits an Owner to rent, lease, and manage their own property.

Section 521-7, Hawaii Revised Statutes, also clearly states that the only exemption from the landlord-tenant code for

transient rentals is transient occupancy on a day-to-day basis in a hotel or motel. Since all other transient accommodations are subject to the requirements of the landlord-tenant code, operators of transient accommodation who live out of the State or on a different island are already required by law to designate an ~~[on-island]~~ agent residing on the same island to act on their behalf. This Act is intended to clarify that this requirement applies to all operators of transient accommodations who live out of the state or on a different island.

The legislature also finds that the landlord-tenant code focuses on consumer protection. Requiring operators who live on a different island from their transient accommodation property or out of state to designate a local contact is an important aspect of consumer protection. A contact person located on the same island as the transient accommodation is essential in the case of an emergency or natural disaster. A~~n~~ ~~[on-island]~~ **local contact** is also vital if any question, concerns, or property issues arise regarding the transient accommodation.

The legislature also finds that requiring community, condominium, and other similar associations to provide relevant information to the department of taxation on all operators who

1 may be leasing their property as transient accommodation will
2 help ensure compliance with appropriate state and county tax
3 laws. Requiring the counties to provide the department of
4 taxation with relevant information about operators of transient
5 accommodations will permit additional enforcement of relevant
6 state and county tax laws.

7 Accordingly, the purpose of this Act is to foster consumer
8 protection in the State's transient accommodations market and
9 ensure greater compliance with applicable state and county laws
10 by operators of transient accommodations in the State."

11 By amending section 2 to read:

12 "Section 2. Chapter 237D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "S237D- **Local contact [~~On-island agent~~]; relevant**
16 **information; advertisements; transient accommodations.** (a) Any
17 operator of a transient accommodation, not resident on the same island, shall
18 designate a **local contact [~~an on-island agent~~]** residing on the same island where
19 the transient accommodation is located.

20 (b) The operator shall furnish the name, address, and
21 contact information of the **local contact [~~on-island agent~~]** to

any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which the operator's compliance is required for the property where the transient accommodation is located. The operator shall notify and provide updated information to that association or nongovernmental entity within sixty calendar days of any change in the name, address, and contact information of the **local contact** ~~[on-island agent]~~.

Any person or entity who wilfully fails to supply information required under this subsection shall be subject to the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.

(c) Any nongovernmental entity with covenants, bylaws, and administrative provisions which is formed pursuant to chapter 514A, 5143, or 421J, shall provide the department with all relevant information provided to them by its members, maintained in its records, related to all operators who may be leasing their property as transient accommodations by December 31 of each year, or within sixty calendar days of any change in

1 the relevant information, operation, or ownership of the
2 transient accommodation. Any person or entity who willfully
3 fails to supply information required under this subsection shall
4 ~~[be subject to the penalties under section 231-35; provided that~~
5 ~~a person or entity shall not be subject to any term of~~
6 ~~imprisonment or probation under section 231-35.]~~ pay a civil
7 penalty equal to \$75 multiplied by the number of members
8 comprising the entity.

9 (d) Each county shall provide the department with
10 information necessary to enforce this section. Notwithstanding
11 any provision of title 14 to the contrary, the department shall
12 provide the counties with information necessary for the
13 enforcement of county real property tax laws.

14 (e) The name and phone number of the **local contact** ~~[on-~~
15 ~~island agent]~~ for each transient accommodation shall be included
16 in any transient accommodation contract or written rental
17 agreement and shall be prominently posted in the transient
18 accommodation. The **local contact** ~~[on-island agent]~~ shall reside
19 on the same island as the transient accommodation, and shall
20 meet all other requirements under subsection (a) ~~[and chapter~~
21 ~~467]~~. Any person or entity who wilfully fails to supply

information required under this subsection, ~~[or operator who does not secure a local contact [an on-island agent] meeting the requirements of this~~

~~section]~~, shall be subject to the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.

(f) The registration identification number issued pursuant to section 237D-4 shall be provided on a website or by online link and displayed in all advertisements and solicitations on websites regarding transient accommodations for which the registration number is issued.

(g) The payment of any penalty assessed under this section shall be in addition to the requirements under section 237D-9.

h) For the purposes of this section:

“Real Estate licensee” means ~~[an individual or company]~~:

A real estate broker, real estate salesperson under the direction of a real estate broker, condominium hotel operator, or real estate brokerage that is licensed or registered under chapter 467 and contracted by the operator of the transient

1 accommodation to provide services required by
2 section; ~~[or]~~

3 A custodian or caretaker, as defined in section 467-1,
4 ~~[who]~~ is an individual employed by the operator of the
5 transient accommodation to provide services required
6 by this section.

7 **Nothing in this section shall be deemed to create an employer**
8 **employee relationship between an operator and its local**

9 **contact.** ~~[If the person performing the role of an operator's on-island~~
10 ~~agent is not licensed or registered under chapter 467,~~

11 ~~the person shall be considered to be acting as a custodian or~~

12 ~~caretaker, as defined in section 467-1. The unlicensed person~~

13 ~~shall be an employee of the operator and may act as an on-island~~

14 ~~agent for only one operator]~~. **Nothing in this section shall be deemed to disallow**
15 **any provision of 467-2.**

16 **"Local Contact" means:**

17 **the person or entity residing on the same island where the**

18 **transient accommodation is located; the local contact is**

19 **engaged by an owner who is managing, leasing, renting his/her**

20 **own transient accommodation property.**

21 "Relevant information" means the operator's name, address,
22 contact information, registration identification number issued
23 pursuant to section 237D-4, and website address if advertising
24 or soliciting the transient accommodation on the Internet."

25 1. By amending section 4 to read:

1 “Section 4. This Act shall take effect on July 1, 2012 [;

2 ~~provided that this Act shall be repealed on December 31, 2015].~~

3 SECTION 2. This Act does not affect rights and duties that

4 matured, penalties that were incurred, and proceedings that we

5 begun before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed

7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2015.



Kona Coast
VACATIONS

To Whom It May Concern,

Please accept this testimony in support of SB 1031.

Real Estate licensed Vacation Rental Managers are one Hawaii's best State tax collection systems. These licensed Vacation Rental managers ensure that the GE and TA taxes are accounted for and submitted. For the past 9 years of business we have ensured that our managed property owners charge, collect and submit their appropriate taxes on time. The competitive Real Estate governed Vacation Rental industry ensures guest and owner satisfaction while

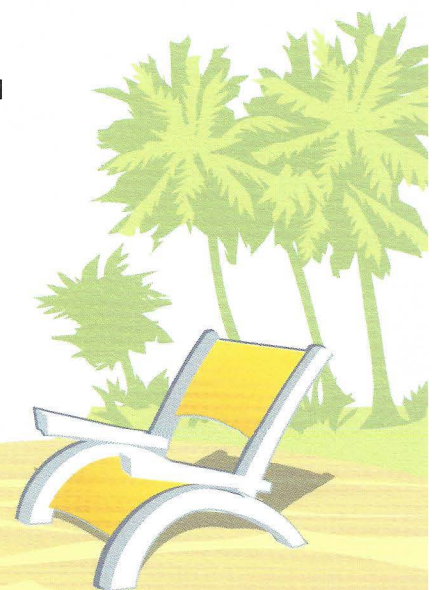
ensuring the high standards of real estate transactions are met. This provides clear and concise agreements, proper use of trust accounts and accounting for both guests and owners.

We have run into many individual owners, on island contacts and other non-regulated providers that bypass the tax system by operating without written contracts and agreements. Money travels directly off island to owners, who then contract individuals and service companies to manage their homes via cash or cash equivalent payments. They then allow their "friends" to stay at their homes.

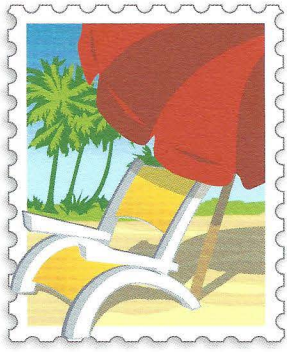
If you take away the licensing requirements you will have no possible way of auditing these varied and many management entities. It is our belief that many self-managed vacation rentals will still bypass the system by not reporting or reporting portions of the rental income. If you have no regulating body, how easy is it to provide discounts to returning guests for paying the owner directly using cash. Other examples are service companies' charging for one service such as landscaping or home checks (subject to GE) then providing taxable management services for vacation rentals that are subject to TA and GE (a loss of 9.25%) which will continue to evade the tax system.

Licensed Vacation Rental companies are a major tax revenue generator, collector and an employer in Hawaii. The professionally managed Vacation Rental component of Hawaii Accommodations can be a positive force in bringing travelers and their expenditures to the islands year after year, or if not operated professionally, Vacation Rentals have the potential of being very detrimental to the Islands.

We have been in the short term or vacation rental business for over nine years growing from 4 (four) employees to 14 (fourteen). We have seen guests being scammed with properties falsely advertised, property owners being scammed by guests, vacation rental companies scamming property owners and the most blatant has been the off island management of homes to sidestep the payment of taxes. This past week, a guest called asking for a referral to lawyer, he wanted to sue a person who falsely advertised a property for rent. The individual who misrepresented the property has sullied the Vacation Rental industry, and the Hawaii travel industry. Why share this information, the State should want this to



www.KonaCoastVacations.com



be an industry that is able to be reviewed and audited. Realtors have a standard in which to adhere, including the use and management of trust accounts. The threat of losing their Broker's license provides the self-policing incentives to operate honestly and with integrity. Having a third party such as a Broker manage the funds ensures more fair treatment of guests and owners. How secure is the guest's future money if the funds are placed in a trust account managed by the individuals owning the property.

Placing a high standard on the Vacation Rental Industry will ensure the Islands are represented in a positive way. We look forward to a time when all vacation rentals are collecting and submitting their taxes and being operated in a professional manner.

Aloha,

Ted Klassen MBA

Partner -Kona Coast Vacations

Kona Coast Property Management dba Kona Coast Vacations

74-5565 Luhia Street, #101

Kailua Kona, HI 96740





Dear Hawaii State Legislature,

I am the owner and President of South Kohala Management, a property management firm handling over 100 vacation rentals in the resort communities of the Kohala Coast, on Hawaii Island since 1982. The tourism industry is a key industry in Hawaii and needs to be regulated effectively in order for our state prosper. There is a lot of opportunity to increase occupancy at the local hotels and vacation rental properties across our island, but business is being siphoned away from these legal and professional tourism sectors to the growing quantity of illegal vacation rentals.

On the Big Island we have seen the economic landscape shift over the past 10 years as non-resident vacation homeowners have taken advantage of the states lack of clarity and enforcement when it comes to transient accommodations. Property management companies started to see a decline in their business to the growing trend of homeowners wanting to go the “self-managed” route. With new online marketing platforms, homeowners could now advertise and rent their property themselves and organize housekeeping and other home maintenance from their computer at home on the mainland or wherever. To compete against professionally managed properties, these vacation homeowners cut their prices to attract business. That is money that has simply vanished from Hawaii’s economy.

Professionally managed vacation rentals have had to lower rates in order to compete with all the illegal rentals. Not to mention that professionally managed vacation rentals collect the GE and TA taxes and have to compete against rentals that do not impose this mandatory tax. Some of them do pay these taxes, but drastically underreport their actual revenue. Many non-resident vacation rental operators hire housekeepers and handymen hourly as independent contractors and do not report these wages, encouraging the expansion of a huge underground economy in Hawaii. When you really look at the big picture, the net effects of this unregulated business activity is the evaporation of millions of dollars of revenue to local businesses, workers, and tax revenue to the state.

I submit the above testimony for consideration by the state in passing SB1031. The Hawaii Landlord Tenant Code already requires that non-resident property owners must use a local “agent” to rent lodging for a transient accommodation. The meaning of “agent” needs to be clarified and the law enforced. It is only logical that someone with a real estate license, who is trained and certified on the state’s current leasing laws and their application, be the required “agent” of transient accommodations (except for the custodian-employee exemption).



Please reject SB 1237 that allows for an unlicensed “local contact.” This is just a loophole to allow non-resident vacation rental operators to handle their own leasing activity and evade the laws. Who does the state have a duty to protect? Out-of-state homeowners/investors who ignore the law? Or local, licensed and regulated business operators who pay their fair share of taxes and have a vested interest in our local communities?

I urge you to vote for bills HB 803 and SB 1031 for the interests of consumer protection, public safety, to support local businesses in creating jobs, and to strengthen our tourism industry through affective regulation.

Sincerely,

Malia Rozetta
President

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: honolulub@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 1:45:23 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Cook	Captain Cook Real Estate	Support	No

Comments: I strongly support this bill which is intended to end or greatly curtail the illegal vacation rentals in the state, and add further legitimacy to those legal vacation rentals.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: adaeschen@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 5:45:07 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ada Eschen	Individual	Oppose	No

Comments: I oppose this bill and support RBOAA's position on this matter.

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.

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Dear Members of the Committee:

I oppose SB1031 in its current form and urge you to do the same.

The points raised by the Hawaii Rental By Owner Awareness Association (RBOAA) regarding this bill are most helpful, and you will have seen them under separate cover.

Act 326 from the 2012 Session did an effective job in addressing the issues raised in respect of its need. Indeed, in its final form, *Act 326* enabled all to witness the balanced outcome achieved through proper consultation.

No doubt, many were enticed to invest in Hawaii real estate as a result of the practicality of *Act 326* in achieving its stated purpose. Regrettably, SB1031, in reverting to a declaration that the “Local Contact” now be an “On-Island Agent, i.e., a licensed real estate agent or broker or the like, would represent a bait-and-switch approach to consumers who relied upon the laws of Hawaii (*Act 326*) and various protections afforded them — be they through constitutions and trade agreements — in considering an investment in real property in the state to be a sound one.

Again, I wholeheartedly agree with the assertion within *Act 326* that it is appropriate to have a contact for a vacation rental property who is resident on the Island on which the transient accommodation is located. That said, our experience with our two properties has been that despite some ‘big weather’ that has reached Hawaii these past few years, we have been, and remain, the only contacts for our guests, despite our compliance with posting contact information for our Local Contact and including same within the rental agreement. Indeed, with the Internet, and National Weather Service information so immediately accessible, we’re often ahead of Hawaii in letting our both our guests and our neighbours in our complex know of these kinds of developments.

As for lockouts and similar, we have not had any. We have an excellent check-in process, and all our dozens of on-line reviews are five-star reviews. I note that an agency active in our building receives regular online criticism on Trip Advisor for botched check-ins; we experienced this ourselves when staying with the agency in 2006; inexperienced staff, uncaring, poor oral and written communications, and sloppy process for after-hour access. Local, yes, but consumer-oriented not at all, still having the same problems getting guests into their apartments that we encountered almost a decade ago when we stayed with them. Indeed, still the very last people we’d look to for assistance were we in need of same whilst on-Island. Indeed, what on earth do they know or can they do that we or others can’t do as or more effectively?

In respect of the “On-Island Agent,” as RBOAA has noted, and which bears repeating here, these individuals have no fiduciary responsibilities and therefore do not need to be licensed or regulated. In respect of SB1031, realtors possess no special skills which are relevant to dealing with lockouts, broken appliances, or natural disasters. I’m not sure that state legislators in Hawaii believe that visitors to Hawaii should seek realtors for this kind of support when legislators themselves would surely find it inadequate for their families. For the real estate agents who would benefit from such a state-created monopoly, however, it’s easy to see why they’d advance such anti-consumer legislation

to legislators; after all, why work and compete when legislators might just be manipulated into creating a monopoly that rewards sloth?

The deeper point to be found in the RBOAA perspective on SB1031, and one that certainly resonates loudly, particularly in a global context, is the bill's requirement that investors in Hawaii transient accommodations cede control and management of their properties to the Hawaii government's selected agent, i.e., realtors. Put simply, 'monopoly creation' by government is never a pathway to consumer protection. It's this spurious link that offers such insult to Hawaii, those who would visit it, and those who support true consumer protection. Indeed, in SB1031 — in creating this monopoly — the bill's drafters then abandon ship and all pretense of "consumer protection" by failing to regulate the rate at which realtors can be compensated for the state-created monopoly by which realtors, alone, benefit. Surely this "On-Island Agent" reference in SB1031 is a drafting error, and the intent was to reauthorize *Act 326* complete with its effective use of "Local Contact"

Act 326 demonstrated the better nature of Hawaii legislators and government language. I agree with the RBOAA suggestion that the way forward is to renew *Act 326*, and give it greater effectiveness by ensuring that the terms "agent," "on-island agent," and "local contact" be made consistent with the Landlord Tenant Code and that the responsibilities of the owner be made consistent with the Real Estate Brokers and Salesperson Code HRS 467.

Finally, it again bears emphasis that many of the Canadians who have invested in Hawaii have done so through the opportunities and protections for cross-border investment created by the North American Free Trade Agreement (NAFTA). As legislators will be aware, NAFTA began on January 1, 1994, and from its start, removed most barriers to trade and investment among the United States, Canada, and Mexico.

Bill SB1031, in requiring owners to have an "On-Island Agent, i.e., a licensed real estate agent or broker or the like, establishes a new requirement for cross-border investors.

Part Five of NAFTA ("Investment, Services, and Related Matters"), at *Chapter 11* ("Investment") sets out the behaviours each party (which, in this case, means the US and Canada and their respective states and provinces) agreed to extend to each other in signing NAFTA. Hawaii is bound by the requirements of, and protections offered by, NAFTA. That point is not in question.

While it may have been the case that among all parties to NAFTA there were, at the time of signing, laws and regulations on their respective federal, state or provincial legislative books that pre-dated NAFTA, agreeing to NAFTA meant agreement to removal of most barriers to trade and investment. Moreover, when NAFTA was signed, all parties were able to identify and agree upon exceptions to NAFTA in areas of trade, commerce, and regulation where NAFTA provisions would not apply. In NAFTA, at neither *Chapter 21* ("Exceptions") or at *Annexes* ("Reservations") is found any language that would exclude Hawaii from either offering or benefitting from the full protections and opportunities of NAFTA.

In its current form, SB1031 fails several NAFTA tests, and I would hope that its drafters have taken all care to ensure that legislators who introduced the bill, and those who may consider it, have been apprised of their role in upholding these NAFTA provisions and protections. If that's not the case, Hawaii legislators have, yet again, been grossly misled by bill drafters.

SB1031, in requiring investors to turn over management and control of their property to a Hawaii realtor — just like another bill requiring owners of transient accommodation to use a Hawaii-based bank — is fully offside with Canadians' *Chapter 11* NAFTA protections that Hawaii has a duty to honour and uphold. Under **Article 1106: Performance Requirements**, i.e., "No Party may impose or enforce . . . in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory . . . [a requirement] to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory. . . ."

The same is true for SB1031 when it applies more onerous operational standards for those who live out-of-state than those who live in Hawaii. Indeed, NAFTA **Article 1102: National Treatment**, provides that each Party shall accord to investors — and investments of investors — of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments. Just to be clear, NAFTA further specifies that with respect to a state or a province, "treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part."

It is as true in Hawaii as it is anywhere in the world: The Digital Age has changed us all. It has brought opportunity, and it has brought challenge. That's the way of innovation.

But so far, those in Hawaii unable or unwilling to adapt and compete in the Digital Age — hoteliers and condo rental agencies particularly — have simply turned to state legislators for an easy-button solution: 'Dear legislators,' they urge: "Please tilt the playing field that requires competition and adaptation on its side by seizing control of private property and creating monopolies so we longer have to worry about consumer protection, or care about competing or adapting to meet consumer needs.'

In a dark moment for us all, Hawaii's hoteliers and condo rental agencies have proposed bills that will force investors in Hawaii to cede control and management of their investment properties to state-sanctioned third parties, namely themselves.

They have proposed legislation so confusing and complex, with penalties so high for any unintentional error in compliance, that such bills will surely cause some operators of legal transient accommodations to vacate the marketplace in search of more reliable and stable investment climates in other states or countries, thereby creating a hotel monopoly that such bill proponents seek.

And most egregious, they are putting bills in front of Hawaii legislators who, if they accede to their content, will demonstrate that Hawaii's word as signatory to the foundations of our society — be they constitutions, trade agreements or contracts — cannot be relied upon.

It must be as hard for Hawaii hoteliers and as it is for any business when consumer preferences change, and people prefer less and less the product you offer. Ask the makers of rotary-dial phones. Cassette tapes. VCRs. Fax machines. Times change; we may not like the change — ask ABC, NBC, and CBS how they feel about HBO and cable — but clever people, companies and industries learn to adapt to changing preferences. They employ innovation and embrace adaptation to find a new niche amidst the new consumer preferences. The less admirable people, the ones who aren't nimble, the dangerous companies and industries? Rather than compete and move forward, they look for ways to set back the hands of progress.

And they cause irreparable damage in the effort.

Canadians have always been good to Hawaii, making huge short- and long-term investments in the state. The Hawaii Tourism Authority reports that for 2013, Canadians accounted for almost 10% of state visitors, and pumped \$1.1 billion into the economy. Many of the 500,000 Canadians who visited Hawaii like staying in condos, whose popularity with Canadians has been rising at the expense of their preference for staying in hotels. And as different as Canadians and Americans may be, this same Hawaii Tourism Authority report shows that in accommodation preference in Hawaii for condos over hotels, we're the same: Americans from the other 49 states, just like Canadians, are embracing accommodation choice, and increasingly choosing accommodation other than hotels when choosing to visit Hawaii.

Coldwell Banker reports that Canadians were the top foreign buyers of Hawaii properties in 2013, purchasing \$244.6 million worth of property. Canadians have been investing in Hawaii real estate for decades, and this cumulative Canadian cross-border investment in just this one US state is in the billions.

Again, many of the Canadians who have invested in Hawaii have done so through the opportunities and protections for cross-border investment the North American Free Trade Agreement (NAFTA) created when it came into force in 1994. But these Hawaii bills ignore NAFTA and Canadians' protections under it. Indeed, SB1031 in turning the admirable *Act 326* on its head by requiring off-Island owners to use a licensed real estate agent establishes a new requirement for cross-border investors that makes one wonder if bill drafters were even aware of the state's obligations under NAFTA when they advanced this and similarly festering bills to Hawaii legislators.

As noted, SB1031 fails several NAFTA tests. Perhaps the bill's failure to comply with at least one key agreement Hawaii committed to uphold is just an oversight by the drafters, a simple mistake. Well, whether intentional or accidental, per their own legislative proposals elsewhere this session, it's unforgivable, one that would see them, per HB968, unable to defend themselves, and through SB201, guilty of a Class C felony and facing up to five years in prison, and a fine of up to \$10,000.

In the effort to aid understanding of consideration of SB1031, the NAFTA section of singular import is, as noted above, Chapter 11, which commits Hawaii to uphold NAFTA commitments. On the strong likelihood that the bill drafters did not provide Hawaii legislators with accompanying briefing materials on the NAFTA protections and provisions Hawaii is bound to uphold, the key ones that apply to SB1031 are provided at the close of my testimony, below.

It is unlikely that those who drafted this bill believe that Canadians with property investments in Hawaii require notification that, under SB1031 and other bills making their way through the legislature, their current Hawaii property investments are at risk.

It is unlikely that those who drafted this bill believe that Canadians considering making property investments in Hawaii require notification that this and other bills like it, in their current forms, make future investment in Hawaii a dubious action in an unstable jurisdiction.

It is unlikely that those who drafted this bill have considered if Canadians might continue to visit Hawaii if it were understood that Hawaii legislators had nationalized the real property investments in the state by Canadians by forcing them to cede control of their management and operation to others chosen by the state.

And it is unlikely that those who drafted this bill have considered that Hawaii legislators, by acceding to the wishes of those who want to end consumer choice in accommodation options in Hawaii, will eliminate a preferred accommodation choice favoured by Canadians, thereby making Hawaii a disadvantaged cousin to the competitive and robust US and international Canadian-friendly sun destinations that offer an array of accommodation choice that Canadians seek.

In the end, those who have drafted this bill and foisted in on Hawaii legislators have failed in a great many ways. *It falls, therefore, to those who support competition and the consumer choice it makes available — and the level of consumer protection that comes with choice — to warn Canadians that Hawaii is turning its back on them in favour of creating monopolies in accommodation, and that Hawaii will nationalize their property investments in Hawaii in order to do so.*

SB1031 does not give new life to the admirable Act 326. It seeks to replace an act that advanced consumer protection with one creating a monopoly that would tear it down. It gives license to those who seek to gain by deceit, contrivance, and manipulation, and should generate opposition from us all for its offense to the principles that have built strong societies and economies that have endured, and thrived. And it deserves our scorn for the betrayal it represents of a commitment we make to constitutions, trade agreements, and the grand and noble principles upon which they are built.

SB1031 is no replacement for the effective, balanced, and admirable work of the Hawaii Legislature in developing and enacting Act 326. I oppose it and I hope that you and your committee colleagues will do the same.

With kind regards,

Adam

NAFTA Article 1102: National Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:
 - (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
 - (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

Article 1103: Most-Favored-Nation Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

Article 1104: Standard of Treatment

Each Party shall accord to investors of another Party and to investments of investors of another Party the better of the treatment required by Articles 1102 and 1103.

Article 1105: Minimum Standard of Treatment

1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.
2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.
3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 1102 but for Article 1108(7)(b).

Article 1106: Performance Requirements

1. No Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its territory, or to purchase goods or services from persons in its territory;
- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment;
- (e) to restrict sales of goods or services in its territory that such investment produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (f) to transfer technology, a production process or other proprietary knowledge to a person in its territory, except when the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws or to act in a manner not inconsistent with other provisions of this Agreement; or
- (g) to act as the exclusive supplier of the goods it produces or services it provides to a specific region or world market.

2. A measure that requires an investment to use a technology to meet generally applicable health, safety or environmental requirements shall not be construed to be inconsistent with paragraph 1(f). For greater certainty, Articles 1102 and 1103 apply to the measure.

3. No Party may condition the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;
- (b) to purchase, use or accord a preference to goods produced in its territory, or to purchase goods from producers in its territory;
- (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with such investment; or
- (d) to restrict sales of goods or services in its territory that such investment produces or provides to the volume or value of its exports or foreign exchange earnings.

4. Nothing in paragraph 3 shall be construed to prevent a Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment in its territory of an investor of a Party or of a non-Party, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory.

5. Paragraphs 1 and 3 do not apply to any requirement other than the requirements set out in those paragraphs.

6. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in paragraph 1(b) or (c) or 3(a) or (b) shall be construed to prevent any Party from adopting or maintaining measures, including environmental measures:

- (a) necessary to secure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;

- (b) necessary to protect human, animal or plant life or health; or
- (c) necessary for the conservation of living or non-living exhaustible natural resources.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: a.wilson@jwr.ca
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 9:08:15 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Wilson	Individual	Oppose	No

Comments: I am writing in opposition of SB1031. As an owner of a transient rental in HI, while I fully support the requirement of an island contact for transient guests, I strongly oppose the requirement that the on-island agent be a real estate licensee.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: buzz@mahana308.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 6:27:25 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Albert W Merrill, PhD	Individual	Oppose	No

Comments: I have successfully and responsibly owned and rented my condo unit in Maui since 1978. I pay all taxes due. I talk with and personally support all the people to whom I rent. I do not need and am better at supporting my guests than any outside entity could be since I know my unit, the project, and local conditions better than any outside agent could. My condo is a big part of my life and I retain all the monies that would give to a managing agent. Otherwise the affordability and market value of my unit would decrease and the Hawaii government would receive a proportionately lower tax revenue. Hawaii would be taking tax money out of its pocket and giving it to realtors and managing agencies. Not smart.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: californiaamy@charter.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 8:06:40 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Siroky	Individual	Oppose	No

Comments: I oppose this bill. A similar bill was presented in 2012 and overturned. This is another effort by the realtor association to have a monopoly on this. • I support the requirement to have an contact who is resident on island • I oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. My property would go into foreclosure if I had to pay realtor rates to manage my property. I would not have the ability to choose MY on-island contacts for vendors to clean and maintain my property. • I propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Thank you. Amy Siroky Owner, 69-550 Waikoloa Beach Drive, #1701 and #2301 Waikoloa, HI

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: andre.chabot@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 3:48:13 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Andre Chabot	Individual	Comments Only	No

Comments: To Whom It May Concern, I have lived on the Big island for 13 plus years and supplement my income by renting out my cottages and studios. My wife, son and I all work together on managing this little business we have. My wife and son are unemployed so this really helps us get by. I have health problems (Cancer) and won't be able to work that much longer. We really depend on this income and in the next few years, it will be the only income we/they will have. To keep costs down, we do all of our booking, cleaning, and meeting our clients ourselves. We don't rely on anyone else and if we did, we would have to pay them and we can't afford to do that. We don't make a lot of money as it is. We are against using a realtor which will only complicate things and cut our income significantly. We can't afford it. We run a smooth business, pay taxes every 3 mos., we have great reviews and the people we attract to the islands, spend a lot of money on the island which helps the Hawaiian economy and the people who own small businesses here. Please don't require us to hire a realtor, that will destroy our business because it will really cut down on the bottom line and it won't be worth all the hard work any more. Kind regards, Susan and Andre Chabot

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: akwolford@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 5:23:15 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Wolford	Individual	Oppose	No

Comments: We raise quite a bit of taxes for the state here on Maui as our "guests" return year after year to stay in our condo, which we manage ourselves. The tourists have contacted me personally for years and will continue to do so, as I supply the personal touch they like.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: animals@threeringranch.org
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 4:22:53 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Goody PhD	Individual	Oppose	No

Comments: Aloha, I am an owner of a vacation rental unit in Kailua Kona. I pay GE and TAT on our income. Our unit is listed in our AOA as a short term rental but I know that HB803 will have devastating effects on the units in the same building. Most of these units do not have a local owner. Nor do we need to be told that a licensed realtor or broker should be our manager. These realtors who are pushing this bill want to take control of all vacation rentals. Just having a local representative is essential but insisting that it be a realtor just creates an impossible situation for many owners. The realtors charge a far higher fee to act as local agents then most rental companies. They do not do the job any better, in fact from what I have been told by some who used to list through realtors the service is worse and the guests do not have a better experience. Mandating A local contact = great idea Mandating it be a realtor = bad idea Regards, Ann

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February 16, 2015

Honourable Gilbert Kahele, Chair, and Members of the Senate Committee on Tourism and International Affairs.

Mahalo for the opportunity to testify.

I oppose SBI031.

In 2001, I was finally able to put my savings together to purchase a condo on Maui and have been able to help pay for it by renting it to guests. It is my love for Hawaii and my dream of being able to afford to spend more time here that drew me to investing in the State.

HB803 states that the purpose of the act is to foster consumer protection in the State's transient accommodations market and ensure greater compliance with applicable state and county laws by operators of transient accommodation in the State." I support these goals of the bill. My opposition to the bill is because its primary provision would regulate the on-island contact mandated by Act 326 requiring that out of state owner-operators provide, instead of an "on-island contact," an "on-island agent" with agent being defined as a licensed real estate broker or sales representative working for a broker or a caretaker who is an employee only of the owner/operator. This change does nothing to foster the purported goals of the bill but has serious negative financial consequences for those of us who are in compliance with current laws and pay all required taxes as well as those with whom we currently contract to support our owner-managed rentals.

The bill, through its provisions, seems to be drawing on an assumption that ONLY off-island owner-operators engage in activities that require the state to intervene to protect consumers and try to circumvent current TVR laws and tax-paying responsibilities. The bill's licensed agent requirement additionally seems to assume that only licensed real estate agents or full-time employees are capable of calling plumbers or other repair people, fixing problems, or otherwise deal with the variety of issues that surface in taking care of vacationing guests.

By what logic can it be imagined that a real estate agent who has a financial stake in the sale of one or more real properties which will reward him or her with thousands of dollars of commissions, will stop in the middle of a showing or negotiation to return the call of a guest in a TVR whose toilet is leaking – or has some other kind of request for assistance? There is no evidence that licensing someone to arrange for basic consumer services required for the management of TVRs is required. I, like most self-managing owners, rarely have a guest who needs to call my on-island contact for assistance. Guests are given my phone number and email contact as the first person to contact when a problem surfaces. I have a network of service personnel who I can call on to respond to guest needs. When there is an issue, the internet and my phones make me as close to my guests as someone on island and since I am intimately familiar with my TVR, I am the one most likely to know what kind of response is necessary. Owners who self-manage and advertise on websites such as VRBO are motivated to bend over backwards to keep their guests happy because negative reviews are the kiss of death for future bookings

Why is it that the bill would allow licensed real estate agents to participate in real estate buy and sell activities and be an agent for multiple TVRs (without being my employee) but requires that any agent who is not a licensed real estate agent be my employee who can only work for me? Given how little my contact has to do, this is a real abuse of my agent who is also my cleaner – preventing him from having enough work to make a living. All one has to do is go to some review sites such as Trip Advisor to see that many of the most negative reviews are written by guests who have stayed in vacation rentals managed by management companies. Some sample reviews of units in my complex which are managed by

management companies are attached to this testimony. In previous versions of bills like this, it has also been argued that licensed real estate agents or managers are required to make sure that owners pay all appropriate taxes. Yet, testimony on this bill's companion bill in the house reveals horror story after horror story of "licensed real estate agents" or management companies who have collected rents without reporting them to owners and then disappearing with taxes paid by tourists for their accommodation. Similarly, many of those who have provided testimony have declared that many real estate agents or management companies who have managed their property have not maintained their property to the same level of cleanliness and repair that they would expect as a vacationer. Personally, when I had a management company managing my condo, I privately booked almost all vacationers in my condo and still paid them a "management fee" for doing almost nothing. In the last two years of their management, they provided NO bookings at all and yet I had to pay them over a thousand dollars in fees even when they did not even check my guests in and out because I had a combination lock box on the front door. They also occasionally, without my consent, would replace items in my condo with replacements that were of lower quality that I would have chosen. I still had to pay for them. At times they tried to force me to contract for services that I did not need and for which, I am sure, they would have taken some of the payment as commission. It is for these reasons that I started to self-manage. I was already doing all the work.

The change from required "contact" to "agent" as defined by this bill does nothing to bring those (who live on-island or off-island) who are non-compliant with current laws into compliance. All it does is place an unequal financial burden on one group of investors who are already in compliance without evidence to justify that unequal treatment. Most investors are like me – barely making a profit or breaking even. Even without a mortgage, until the recession, I could have earned a better return by investing in Certificates of Deposit.

Finally, the bill, because it does not solve the problems it is intended to address and, without justification, mandates regulation of local contacts required by Act 326, it is likely to be found in violation of the Hawaii Regulatory Licensing Reform Act. I cannot imagine that the kind of regulation proposed by the bill would hold up in court after a Sunrise Analysis which would require that legislation meet the criteria of rationality and fairness (adherence to due process).

"Total disappointment with no offer to help rectify the situation."

●●●●● Reviewed November 24, 2014

Although we requested ground floor, view and king bed; when we arrived we were given a tiny apt. on the second floor with a queen bed and "garden view". No one was available to assist with our bags, nor were there any carts to transport our luggage and groceries. The property is far from pristine - quite dirty!

We returned to the office, called "Maui Condo and Home" (the property management company involved) and were told there was nothing else available. After some time spent on the phone, they came up with an upgrade. This upgrade partially satisfied our request, still no king bed and no air-conditioner. The upgrade was an additional \$169.00 per night!! Their attitude was "take it or leave it."

If you decide to stay at the Akahi, we would advise against dealing with Maui Condo and Home!!

Room Tip: Make sure your requests have been satisfied prior to finalizing payment.

[See more room tips](#)

Stayed November 2014, traveled as a couple

●●●●● Location

●●●●● Cleanliness

●●●●● Service

Less ▲

Was this review helpful? [Yes](#) 1

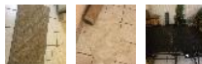
[Ask travel19551955 about Kihei Akahi](#)

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.

"Mis"

●●●●● Reviewed September 27, 2014 via mobile

Awful customer care we arrived here after a long flight from Sacramento, CA only to find a very dirty room that was stinky and dusty that I had to start cleaning even the comforter had stains really bad



Was this review helpful? [Yes](#) 3

MauiCondoMarina, Property Rental Manager, Maui Condo at Kihei Akahi, responded to this review

Aloha and thank you for your feedback. I would like to extend our sincerest apology for the condition in which you found the condo. We are the managing agent for this unit and take all cleanliness issues very seriously. We do contract licensed and experienced cleaners who do a great job for us. Our notes show that you did call...

[More ▼](#)

"Almost SCAMMED for this property on Booking.com"

●●●●● Reviewed March 3, 2012

I made a reservation via booking.com for this property. It mentioned that tax and a service charge was not included. AFTER I PAID, it told me that the service charge was \$165 for a \$300 reservation - Holy Cow! Their cancellation penalty is \$150, so I cancelled my credit card before these scammers could charge it.

Stayed March 2012, traveled as a couple

Was this review helpful? [Yes](#) 6

[Ask Chuck W about Kihei Akahi](#)

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.

MauiCondoMarina, Manager at Kihei Akahi, responded to this review, April 17, 2012

Thank you for your review. We are the vacation rental management company for several units at Kihei Akahi. We do business with booking.com. They are not scammers. I am not sure why this happened to you, but I will pass your review on to booking.com so they can evaluate what happened. We hope you were able to find other arrangements and had a great time on Maui despite this issue. Mahalo, the management at Maui Condo and Home.

"D515 Kihei Akahi"

●●●●● Reviewed March 7, 2013

We love the resort and have stayed here MANY times. We rented this 2 bedroom and were very disappointed! There is dirty, stained shag carpet through out and one bathroom was disgusting with holes drilled in the bottom of the tub, hidden by a bathmat. Under the rubber mat was some disgusting black stuff that looked suspiciously like mold. The kitchen...

[More ▼](#)

Was this review helpful? [Yes](#) 7

CondoRentalsHI, Condo Rental Agency at Kihei Akahi, responded to this review

Aloha, I am glad to hear that you are frequent guest to Kihei Akahi and love the property. I agree it is a great place. I am sorry you did not enjoy your particular two bedroom condo. We take your comments very seriously. We have coordinated a convenient time with the guests that are currently in the condo to have...

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: bob@vshl.ca
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 8:45:18 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Emslie	Individual	Oppose	No

Comments: · We support the requirement to have an contact who is resident on island · We oppose the requirement that the on-island agent be a real estate licensee
o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.
o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.
o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.
o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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I agree that every owner of a vacation rental absolutely must have an excellent on island contact, however, the following outlines why a realtor is not the best choice and addresses other issues surrounding issues.

The proposed legislation states

"1 If the person performing the role of an operator's on island agent is not licensed or registered under chapter 467, the Person shall be considered to be acting as a custodian or caretaker. as defined in section 467-1. The unlicensed person shall be an employee of the operator and may act as an on-island agent for only one operator. "

As TVRs are in direct competition with hotels, unreasonable restrictions (restraints) placed on TVR operators such as the realtor requirement are a matter of "RESTRAINT OF COMPETITION" and are in violation of the SHERMAN ANTI TRUST ACT . The preamble of the applicable section being " to prevent restraints of free competition in business and commercial transactions which tended to restrict production, raise prices, or otherwise control the market to the detriment of purchasers or consumers of goods and services, all of which had come to be regarded as a special form of public injury"

In regard to realtors vs anyone else to act as on - island agent.

Lets look at the reality of the situation. The ideal on-island contact is a person like JP who I employ and not a realtor.

Why because in the actual operation of a TVR a whole slew of issues can crop up, at any time of day or night that need skilled help.

TV remotes malfunction or are dropped and broken which may require replacement by a universal remote so you need someone who knows how to program them right away as a guest may just have arrived and have no TV.

The same can be said for AC remotes and DVD remotes.

Guests may need assistance getting connected to the internet or not be able to open a suitcase inadvertently locked by TSA.

Guests lock bathroom doors from the outside, drop earrings down the bathroom sink drain (requiring removal of the P trap) or jam a screen door, etc, etc.

JP is a highly skilled handyman who is available 24/7 and looks after all these kinds of issues for me and also 15 other TVR operators. He is licensed, insured and registered with the DOL.

TVR operators need someone like JP who can handle all these issues quickly and efficiently in order to offer the best possible guest experience.

So in the actual operation of a TVR having a realtor as an on - island contact is definitely not the best choice.

I used to have a realtor as an on - island contact and the response time to guest issues was, at best, next day. This does not work ...trust me ... I know what I am talking about. I run 2 highly successful award winning TVRs. We have hundreds of positive guest reviews in part because we have an on - island contact person who can respond immediately to guest problems.

Also, notwithstanding the Anti Trust issue and with all due respect, forcing JP to work for only one operator is unfair to him and serves no useful purpose.

Also as a Canadian I would like to point out that, apart from violations of U.S.Anti Trust laws, unreasonable and unwarranted regulations like this are also in contravention of NAFTA.

Thank you,

Bob MacCallum 808 431 4441

Dear Legislators,

My name is Bonnie Aitken and I thank you for the opportunity to submit testimony which I hope will be useful to you as you consider SB1031. I am a lawful abiding owner of my TVR on Kauai. I am licensed in my county, state, and pay GET and TAT taxes as well as increased property taxes on my property that is in a zoned TVR area. I have a local contact required by Act 326. I self- manage my condo. I am the only person who handles the money from the rental of my property. I oppose SB1031 as it requires "local contact" to now be a licensed realtor or a custodian/caretaker who must be an employee and work for only one owner.

I have found that hiring an on-island contact for my guests to be very important for the well- being of my guests. Last year, my on-island contact was most helpful during the hurricane scare. She even does light grocery shopping when requested by the guests. She has also helped out when guests lock themselves out. She has been there to manage handyman issues and prevented serious damage when my water heater showed signs that it was about to fail. She watches over my condo in my absence and does a wonderful job. My guests have written me, complementing me for having such a caring on-island contact. She is there to protect my guests and schedule any maintenance needing prompt attention. She has no fiduciary responsibilities and therefore does not need to be licensed or regulated. She manages a few condos in my complex and can care for more than one unit as they are all close by.

I do not understand why the legislature would desire to alter Act 326 in a way that would prohibit me from using my on-island contact. She is not a licensed real estate agent, nor does she need to be anything more than my on-island representative for my condo. What is the purpose of mandating that this person be required to be a licensed real estate agent other than legislating extra money earmarked for real estate agents?

Designating one single professional body and excluding all other professional bodies to fulfill a regulatory requirement creates a near monopoly. There is no justification for a monopoly. Furthermore, there is no regulation concerning the rate these realtors may charge to be compensated for this role. This could put many owner managed TVR units out of business and the state would lose much of the TAT taxes it collects.

I am in agreement with the recommendation of RBOAA . We propose the language in ACT 326 in respect of "agent", and " local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS467.

Mahalo for your time, effort, and support.

To: The Honorable Gilbert Kahele, Chair, and Members of the Senate Committee on Tourism and International Affairs and The Honorable Rosalyn H. Baker, Chair, and Members of the Senate Committee on Commerce and Consumer Protection

Date: Tuesday, February 17, 2015

Time: 9:10 a.m.

Place: Conference Room 229, State Capitol:

From: Bonnie B Pauli, Manager – Owner, South Maui Condos Owner Direct Rental Network <http://mauiownercondos.com>

Re: S.B. No. 1031, Relating to Transient Accommodations

As a property owner, part time resident of and taxpayer in the County of Maui, and owner of a company that actively advertises nearly 200 legal vacation rentals on Maui, I respectfully submit my testimony.

I appreciate the hard work the committees put into looking out for the interests of the residents of Hawaii and the vacation renters who help support our economy. **I am writing in opposition to SB 1031** as the definition of an on-island “agent” in this bill effectively creates a near monopoly for one professional group when there is no justification for it. I strongly support the requirement that properties offered for rental owned by off island residents have a contact who is a resident of the island.

In 2012 the legislature put much time and effort into understanding the special needs of tourists, local communities and our hard working population resulting in Act 326 which requires an on island contact (or agent) insure the comfort and safety of renters and make it easier to get quick action from an owner representative when needed. They felt any responsible Hawaiian resident could do this.

For many owners, their housekeeper, who is familiar with every aspect of the physical plant of their Maui home, acts in that capacity. She works closely with us, takes special pride in maintaining the condo and caring for our guests, and is available 24/7/365 if a problem occurs. She brings caring Aloha to our guests. **She does not collect money, pay bills or offer the condo for rental so according to Hawaii law she does not need to be licensed.** We don’t believe a realtor with no intimate knowledge of our home or the appliances in it can do a better job.

Just because an owner lives on island does not mean they watch out for their renters or property or abide by the laws better than we do. We support the local economy; work closely with a hard working local staff to keep our homes in top shape; pay GE and TA taxes and file a Hawaii tax return on the rental income we make. There just isn’t room for higher fees paid to someone who isn’t needed.

Those of us who have the time and inclination, are willing to follow the rules and are appropriately licensed should be allowed to manage our own properties and hire the person we think best to help insure the comfort and safety of our guests. The current Act 326 allows us to do this.

I have tried to help do my part to support the State and insure the safety and good will of guests by informing owners looking to join our group about the laws regarding licensing and regulation by the State and County. Prior to allowing a listing on our website, I confirm ownership, require a TA tax id (I check the State’s website to confirm the owner and the licensee are the same) and inspect each property to insure an on-island contact’s name and phone number is in the unit, the unit is clean and well maintained and properly outfitted. I find it hard to understand why the State doesn’t require advertising resources like our directory to check the legitimacy and compliance of the rentals they accept like we do.

I thank you for allowing my testimony and hope you will show the same good judgment you showed in 2012 and wipe the changes regarding the definition of on island contact or “agent” from this bill.

From: [Bonnie Y. Aitken](#)
To: [CPN Testimony](#)
Subject: SB1031
Date: Sunday, February 15, 2015 7:09:46 AM

Dear Senator Baker,

My name is Bonnie Aitken and I thank you for the opportunity to submit testimony which I hope will be useful to you as you consider SB1031. I am a lawful abiding owner of my TVR on Kauai. I am licensed in my county, state, and pay GET and TAT taxes as well as increased property taxes on my property that is in a zoned TVR area. I have a local contact required by Act 326. I self- manage my condo. I am the only person who handles the money from the rental of my property. I oppose SB1031 as it requires "local contact" to now be a licensed realtor or a custodian/caretaker who must be an employee and work for only one owner.

I have found that hiring an on-island contact for my guests to be very important for the well- being of my guests. Last year, my on-island contact was most helpful during the hurricane scare. She even does light grocery shopping when requested by the guests. She has also helped out when guests lock themselves out. She has been there to manage handyman issues and prevented serious damage when my water heater showed signs that it was about to fail. She watches over my condo in my absence and does a wonderful job. My guests have written me, complementing me for having such a caring on-island contact. She is there to protect my guests and schedule any maintenance needing prompt attention. She has no fiduciary responsibilities and therefore does not need to be licensed or regulated. She manages a few condos in my complex and can care for more than one unit as they are all close by.

I do not understand why the legislature would desire to alter Act 326 in a way that would prohibit me from using my on-island contact. She is not a licensed real estate agent, nor does she need to be anything more than my on-island representative for my condo. What is the purpose of mandating that this person be required to be a licensed real estate agent other than legislating extra money earmarked for real estate agents?

Designating one single professional body and excluding all other professional bodies to fulfill a regulatory requirement creates a near monopoly. There is no justification for a monopoly. Furthermore, there is no regulation concerning the rate these realtors may charge to be compensated for this role. This could put many owner managed TVR units out of business and the state would lose much of the TAT taxes it collects.

I am in agreement with the recommendation of RBOAA . We propose the language in ACT 326 in respect of "agent", and " local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS467.

Mahalo for your time, effort, and support.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: pullbuoy@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:06:24 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Brad Tomlinson	Individual	Oppose	No

Comments: I oppose this bill as it will increase costs for short term vacation rentals and therefore be bad for owners and for the local economy. If tourists choose to go to cheaper places like Mexico, Costa Rica and other places which offer cheaper accommodation this will be bad for the economy. This bill will relate a monopoly for Realtors and is nothing more than a thinly veiled cash grab by a special interest group which will cost the rest of us money in the long haul. In a Country which prides itself on free enterprise and limited government this kind of legislation is inappropriate and bad for the State and the Country. This is the USA and owners should be free to manage their private property as they see fit. I propose the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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Brandon Mullenberg
515 W Prospect St
Seattle WA 98119
Hawaii Tax ID Number W66092269-01

Feb 14, 2015

To whom it may concern;

I am greatly concerned about bill SB1031 which requires that a "local contact" to now be "on-island agent" who must be a licensed realtor. Custodian/caretaker must be an employee and work for only one owner.

My background: I own 4 transient rental condos. I purchased my first in 2012 and subsequently 3 more for investments. I am an out of state owner that uses an on island contact who is not a licensed realtor. His business is a registered Hawaii corporation. He works for a few different owners and takes care of approximately 15 properties. Many of his owners own more than 1. His duties require no special skill set that a real estate agent has and he does not. This is his living and he does a very good job at it.

I take pride in my home ownership and being able to service my guests with great service. I work hand and hand with my on island agent and my guests and together we make a great team. I feel that I am able to offer superior service than an on-island property manager because I deeply care about my property and my guests experience. I have heard from several guests that love to rent from owners directly rather than property managers because of the extra service they receive.

I am registered with the Hawaii Department of Taxation and pay my taxes. I have always paid both GET and TAT on time in full. I am in full compliance with Hawaii's Tax Act 326.

My Hawaii condo's is how I make a living. Because I use an on-island agent and not a real estate agent / broker I am not asked to pay a commission of 25-30% of my earnings. If I had to pay this, I would not make a living. Thus, I would never have ever purchased a Hawaii condo, and even more so, definitely not more than 1.

I strongly oppose SB 1031 for these reasons.

By requiring that I use an on-island agent, I would be out of a living, I would have to sell my properties. The service industry as a whole would suffer.

I understand that this bill is being brought forth out of the fear that not all GET and TAT taxes are being paid and due to illegal vacation rentals, and perhaps also the feeling is that service for owner managed properties is subpar. But let me ask you, who cares more about a property than the owner themselves?

I am all for diligent enforcement of the current statues governing vacation rentals and the collection of all GET and TAT which I pay fully. But I must respectfully oppose this bill.

Thank you for your time,

Brandon Mullenberg
206-755-1104

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: carabirk@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 4:08:33 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Cara Birkholz	Individual	Oppose	No

Comments: I am a Hawaii resident, living in Kihei where I self-manage my four vacation rentals. This bill is an effort by rental agencies to eliminate competition by self-managed off-island vacation rental owners. Absolutely all vacation rental owners should obey the law and pay their taxes. However, taking away the option to self-manage and forcing owners to use a realtor who will in turn charge between 20-50% percent commission off the gross rent will not solve the problem. Instead non-complying owners will continue to not comply, and those who cannot afford to continue to operate with the additional realtor commission, will be forced to sell, causing a huge upset in the vacation rental real estate market and less tax for the government. I am a member of the Hawaii RBOAA (Rental by Owner Awareness Association) and ask you to please consider their recommendations on this bill. Mahalo for the opportunity to testify. Cara Birkholz 808-281-7934

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: carlhu@hufamily.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 2:47:54 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Hu	Individual	Comments Only	No

Comments: Dear HI legislators, I am writing in opposition of HB 803 / SB 1031. As an owner of a transient rental in HI, while I fully support the requirement of an island contact for transient guests, I strongly oppose the requirement that the on-island agent be a real estate licensee. Since the on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities and in fact thousands do providing good paying jobs which support families in our local communities. From a consumer protection perspective, HB 803 / SB 1031 would do more harm than good through stifling competition by providing realtors, who are the main beneficiaries and supporters of this bill, a near monopoly on providing these services. The bill does not regulate the rate which be charged for these services which in many cases will be minimal to non-existent. The higher fees imposed by realtors will be passed onto consumers with no added benefit. Additionally, I must also register my strong objection to the provision of the bill limiting a non-licensed custodian or caretaker to servicing a single operator. This requirement would essentially put most of these individuals out of business since they are not allowed to operate with the same economies of scale that a realtor can. I know many of these so called caretakers and they are extremely dedicated, trustworthy, and service oriented individuals who provide these services to many customers - this is the only way they can make a living since providing these services for a single unit would not be economically feasible. This requirement would be an unfair restraint of their trade which would harm consumers and therefore be in possible violation of the HI consumer protection act HRS 480-2. I therefore urge this provision be stricken from the bill Mahalo for your kind consideration, Carl Hu Honua Kai Hokulani 229 130 Kai Malina Parkway Lahaina, HI 96767

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: cc.travl@verizon.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 5:58:49 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Coppel	Individual	Oppose	No

Comments: We support the requirement to have a contact who is a resident on island
· We oppose the requirement that the on-island agent be a real estate licensee The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

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From: [Christian Ruhrmann](#)
To: [CPN Testimony](#); [Sen. Gilbert Kahele](#)
Cc: info@rboaa.org
Subject: Opposing SB 1031
Date: Tuesday, February 17, 2015 5:48:06 AM

To Whom it May Concern:

Thank you for the opportunity to provide testimony. It is appreciated and I hope it is thoughtfully and respectfully considered.

I oppose the requirement to have an contact who is resident on island.

I oppose the requirement that the on-island agent be a real estate licensee.

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. These bills fail to regulate the rate at which realtors can be compensated for this role.

I would propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

Again, thank you for this opportunity to have a say.

Sincerely,
Christian Ruhrmann

From: [Cynthia Richardson](#)
To: [CPN Testimony](#)
Subject: Opposing SB1031
Date: Saturday, February 14, 2015 1:22:11 PM

Aloha Senator Baker,

Thank you for your service in the legislature. I appreciated hearing you speak on Maui a couple of years ago. My husband and I appreciate you supporting the rights of individual condo owners who rent.

I ask that you continue to support the individuals who own and operate condos as vacation rentals. RBOAA does a good job of representing us. Their positions on this bill are sensible and support jobs in the island communities. There are many reasons to prevent a monopoly of a professional group who seeks to expand its business, as some realtor groups are (again) attempting.

Restating the position of private owners:

I support the requirement to have an contact who is resident on island
I oppose the requirement that the on-island agent be a real estate licensee

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.

These bills fail to regulate the rate at which realtors can be compensated for this role.

Again, Mahalo,
Cynthia Richardson

From: [Cynthia Ruhrmann](#)
To: [CPN Testimony](#); [Sen. Gilbert Kahele](#)
Cc: info@rboaa.org
Subject: Opposing SB 1031
Date: Monday, February 16, 2015 6:59:02 AM

To Whom it May Concern:

Thank you for the opportunity to provide testimony. It is appreciated and I hope it is thoughtfully and respectfully considered.

I oppose the requirement to have an contact who is resident on island

I oppose the requirement that the on-island agent be a real estate licensee

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.

These bills fail to regulate the rate at which realtors can be compensated for this role.

I would propose the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

Again, thank you for this opportunity to have a say.

Respectfully,
Cynthia Ruhrmann

I would like to comment and oppose SB1031. I have a second home in Oahu that I stay in during the summer months since 2008. When I purchased the home I had a real estate agent take care of my house for me. I called him up because the neighbor said the swimming pool water was low and the pump was making noise. I called my real estate agent to have him look into the problem. I had to leave him a message and when he did call back, he told me he was in China or Singapore. I can recall which one it was. What bothered me was that he never told me in a phone call or email that he was going to leave the country and be out of touch. He didn't have anyone else that could help me so I had to find a contractor on my own. I don't like the idea that I must use a real estate agent. I don't think an agent would have the time or want to deal with my house when they can be selling homes and making large commissions. If I choose to use an agent that is fine, but I think local friends and neighbors are willing to look after my second home when I am away. I can't imagine a real estate agent wanting to do this and keeping me as a priority. Also, I do pay all taxes due and I have never been late. One time I overpaid and the tax and revenue service caught it and refunded my overpayment. Sincerely,

Darrell Uher

A handwritten signature in black ink that reads "Darrell Uher". The signature is written in a cursive style and is positioned above a horizontal line.

From: [Darren Grosvenor](#)
To: [CPN Testimony](#); [Sen. Gilbert Kahele](#)
Subject: Opposing SB 1031
Date: Saturday, February 14, 2015 2:49:24 PM

SB 1031 is ok to put more penalties on those that do not follow the rules and pay the taxes, but it should not enrich or empower local realtors that have seen their income tapped into by enterprising individuals. By changing the "local contact" to be an agent and defining the agent to be a realtor, that is what this bill is doing. The realtors will be able to increase their rates and have a monopoly share on the non-hotel rental business.

If the agent is defined as someone that has to register with the government and does not require special licensing, then that would be okay.

An additional idea is that if an on island realtor is required, then the government should define the maximum amount of fee or percentage that they can charge per rental or per month they handle (i.e. 10-15%). Right now they are at 30% but if this law comes into effect, I imagine they will increase to 50% as they will control the market.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: davegiacomini@sbcglobal.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:56:33 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Giacomini	Individual	Oppose	No

Comments: I strongly oppose this measure Thank you for your consideration

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: fscrooner@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:47:04 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Goldson	Individual	Oppose	No

Comments: SB 1031 is nothing more than a blatant attempt by realtors to monopolize the travel rental business by taking away the rights of owners to manage their own condo investments independently. Realtors bring no special expertise or benefits in being an on-island contact to address guest/condo issues. All they will do is call a plumber or handyman to handle the problem. A regulation requiring a plumbers license would make more sense than this travesty. Furthermore, to insure their monopoly realtors have the gall to want to limit on-island contacts to only one client. This is as fair as restricting realtors to only be able to show one property. It's absurd, but so is the justification the realtors are trying to make for punishing owners who they see as competition. Fair competition may be the American Way; the question is – is it the Hawaiian way?

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: konayogi@msn.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 4:28:21 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David L Towry Sr	Individual	Oppose	No

Comments: We oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Mahalo for your time, effort and support.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: ranney@frontiernet.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 8:24:10 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Ranney	Individual	Comments Only	No

Comments: As a current owner of vacation rental, I am against the passage of this bill. We pay our taxes and don't need this additional expense and hassle. Thank you.
David Ranney

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: debbieg1@earthlink.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 12:24:52 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Debbie Gigliotti	Individual	Oppose	No

Comments: I am a private owner of one unit in Maui. I don't need a realtor to serve my guests. I had a Calif RE license for over 25 years and I have excellent communication skills. I would like to know what the governments reason is for wanting to insert another person into my business. I pay my taxes as I should both TA-1 and G-45. A realtor is no better equipped to handle my guests than I amelectronic communication is available 24-7 and most people are able to figure it out. No license required. Any more taxation will kill many small owners...and that is what this is...just a different name for the same animal.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: 05arni@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 3:27:20 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Debi Beckwith Peterson	Individual	Oppose	No

Comments: I support the requirement to have an contact who is resident on island . I oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · I propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Mahalo

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: kumuna@alaska.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 7:17:18 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Geeseman	Individual	Oppose	No

Comments: To State of Hawaii regarding SB 1031 I am an Alaskan resident who fell in love with the Puna area. I purposely designed and built a house there to rent out as a vacation rental and to have for my personal use in the future. By doing so, initially I provided employment for the people involved in the construction. Now I provide employment for my manager, housekeepers, and various other necessary trades. I have faithfully paid my Hawaiian GE and TAT taxes since I opened my business. I am a small, 1-home vacation rental business, and am considered an "active participant" in my operation according to IRS classification. If SB1031 passes, I will not be able to keep my home as a vacation rental. It will force me to close my business. Real estate managers charge a much higher rate (though all inclusive) AND it will change my IRS classification to "passive"; any income gained would be "passive income" and I would lose many of my deductions for the operation. The combined increase cost for management and the decrease in tax write-off would make this business venture very unprofitable. I strongly oppose SB1031 which allows big business to take over small private enterprise. If it passes, I will be one business that will cease to exist. Then I will not be providing the state with monies for 'bed' taxes nor employment for local workers. PLEASE VOTE AGAINST SB1031. Mahalo.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: dhoward53@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 2:27:51 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
deborah howard	Individual	Oppose	No

Comments: Aloha, I oppose SB 1031 because it will cost too much for an individual to hire an agent. We won't be able to even cover our expenses because they ask 40% of gross revenue - STANDARD. And they don't do much to earn that much! They also make promises they cannot keep to the tenant and then the owner is left holding the bag. I pay all my GET and TAT taxes on time every month and only make promises I can keep. I have a local "contact" person and that works out just fine. We don't need any agents in the mix. Why do you entertain legislation of this kind over and over, year after year??? Stop it. We don't want it. Regards, Deborah Howard

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: Palekaiko@hawaiiantel.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 9:14:00 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Della Halvorson	Individual	Oppose	No

Comments: We respectfully submit our opposition to SB1031. We are the owners of a transient vacation rental in a condominium complex in an approved TVR-zone in Maui and operate in compliance with all relevant requirements. Prior to our purchasing our suite in 2009, its rentals had been 20-30% bookings a year. We now book 60-80% a year and I feel it is because of the personalized service that we provide as an "Owner" rental. There are many markets out there that hotels and travel agents fill, however, we are filling a market for guests want to deal directly with us, and not a company. I will always work hard to serve our guests, but SB1031 will force us to pay a property management company for the services we perform. While we choose to employ a property management company as our local contact to take care of our guests during their stay (and are happy with our arrangements) we feel that it should remain an option to employ any other qualified but non-licensed person to be our local contact. The language contained in SB1031 intends to remove that right and I therefore ask you to remove the proposed changes to the definition of "on-island contact". WE OPPOSE SB1031. Respectfully submitted, Keith and Della Halvorson

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: dgarlock@mauibeachbums.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 5:29:28 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis Garlock	Individual	Oppose	No

Comments: This appears to be a way for the state to have realtors eventually collect taxes for the state. Also, this does nothing to protect the consumer. There are many different "agents" now working because of the current law. Put them out of business? This is an unnecessary waste of the legislatures time.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: MauiCondo4u@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 5:55:37 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Don Brattin	Individual	Oppose	No

Comments: I already have better than an "on island" contact. My contact person is my friend who lives less than 100 ft. from my condo. I DO NOT need a real estate person representing me. They can not respond faster and only stand to have a windfall of \$\$\$ for doing virtually nothing for individual owners as well as rental groups at resorts. My guests are given my "ON ISLAND" contact name before they arrive. I oppose this bill. Thank you Don

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From: winemaster@whidbey.com
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: SB1031
Date: Saturday, February 14, 2015 2:43:37 PM

I agree with the need to have a representative on Island to rent out private condos, but I do not know of any reason that it should be a licensed realtor. I have owned my condo in Hawaii for 15 years. For the first 5 years I did use a realtor, I had very little rent and much damage and wear and tear on my condo. Since I was not living on Island I was not aware that they had been keeping the money and taxes from me and keeping it all for themselves. Since that time I have been advertising it myself and renting it much more than with realtors. The state has been getting much more in taxes. The realtors are not investing in Hawaii, it is the owners that purchase property, fix up their condo, remodel, advertise, pay higher property taxes as well as TA taxes, excise taxes etc. All realtors want is to collect 20% to 50% of all rentals collected. It is very clear that this is a potential gold mine for the realtor. That is why they keep trying to pass this and similar bills. It will hurt the economy of Hawaii and the number of visitors that will not come to Hawaii.

Please support the people that help the economy of Hawaii and vote against this bill

Mahalo, Don Duwe

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: donhealy@pcmc.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 5:14:03 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Donald	Individual	Oppose	No

Comments: Dear Hawaii Senate I would like to express my concern and opposition to the changes in this bill coming up, SB 1031. We have tried the first 5 years with the large rental management company and nearly lost everything. Six years ago we moved to private rental and now we enjoy a 5 star review rating and offer tourists very nice accommodations at an affordable price. We obey the laws, we have an on-island contact person who does a great job for us and we pay our taxes. I believe the private rental is also important for Hawaii's tourism and part of the reason many tourists can afford to come to Hawaii and put money into Hawaii's economy. We ask that the on-island contact be left to our picking and not force us to someone who will do a terrible job for our guests and someone we can not afford. There certainly would be many capable persons on Hawaii, other than real estate agents and large management companies, that will do a great job so we can all survive. Mahalo for your time. Donald Healy

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We have owned a condo in Hawaii for 27 years. We have also only been able to do this financially by renting it out to friends, family and through vrbo. For 23 years or through Oct. of 2010, we always worked through a Property Management firm. In 2010 we were the ones who were doing all of the renting except for 10 days in Dec., 2010. We were having to pay 10 % to the property managers for each person that we rented to. Since we were doing all of the hard work, we felt that it was not fair to have to pay them 10%. If they had rented our place for at least half of the time, maybe we would not have felt that way, but they only rented it for 10 days versus the 124 days that we rented it for in 2010. That did not justify giving them 10% for doing nothing for all of the people we sent over there. So we gave them notice in October, 2010, to sever our business relationship with them. We have not been sorry for doing so.

My husband and I have been Property Managers of our own properties for almost 40 years. We have worked very hard to get to where we are today. I have never met a Property Manager who I felt was going the extra mile to pursue the best possible tenant relations and business decisions for the property owner. One always will do a better job when you are managing your own property due to your personal interest level. We also pay our Hawaiian taxes in full and on time by the way.

We are opposed to SB 1031. We have found that our personal interest and hard work garners more success to our rental property in Hawaii than anything else. And Yes, we do so love to come visit your beautiful state. That is what makes our hard work worth the effort.

Mahalo for reading this!

Sincerely,

John and Donna Lowe

From: [Douglas Mitchell](#)
To: [TSI Testimony](#); [CPN Testimony](#); senkahele@apitol.hawaii.gov; [Sen. Roz Baker](#)
Subject: SB1031
Date: Sunday, February 15, 2015 7:58:17 PM

I am Doug Mitchell, an owner of two transient rental properties in Maui. I oppose SB1031. I manage the properties with my wife and have personal contact with many satisfied guests. We have gone the property management route with poor results. We always got a large percentage of our guests on our own. One year the management company got only three guests! Needless to say, we decided to manage the property ourselves. People see what they are getting through our advertising. They are not just pushed into an available slot as many property managers do. We have our tax ID on our advertising and we pay those taxes monthly. We also have the privilege of paying higher property taxes because we rent to transient renters. I think it would also be safe to say that those who manage themselves take better care of their units in order to be competitive. We have spent almost \$100,000.00 in remodeling expenses in the last four years, contributing to the Hawaiian economy.

I OPPOSE SB 1031, but propose amendments which, if adopted, would gain my support and the support of many others. I agree with RBOAA's position on this proposed bill.

The on-island contact has no fiduciary responsibilities and does not need to be licensed or regulated. Why should one professional body be given the right to a near monopoly? This would be a hinderance to my successful business.

To legislate real estate licensees into a role between the tenant and the property owner would put Act 326 into conflict with both the Landlord-Tenant Code and the Real Estate Broker and Salesperson Code.

- The Real Estate and Salesperson Code (467-2) permits an owner to rent, lease and manage their own property.
- The Landlord Tenant Code (521-43f) requires an agent residing on the same island as the property, but does not require the agent to be a real estate licensee.
- Nowhere in either statute does the term "on-island agent" exist (nor does it need to exist).
- The role of "local contact" was created in 2012 for the purposes of Act 326.

I support the amendment being put forward by RBOAA to clearly align Act 326 with both HRS 467 and HRS 521.

"All owners of property who wish to offer transient accommodations must either: 1. Be an owner-operator who self manages, rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or 3. Engage the services of a real estate licensee."

The definition of "on-island agent" can then be logically deleted.

Thank you for your consideration of my views.

Doug Mitchell

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: walterskj81@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 10:16:36 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Kelly Walters	Individual	Oppose	No

Comments: Please vote NO on SB1031. Passage of this bill will be devastating to Maui tourism and will result in less revenue for Maui. Thank You, Dr. Kelly Walters

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Aloha, Members of the Committee,

My wife and I have owned a condo in Kihei since November, 2011. We visit Maui for about 2 weeks a year, and the rest of the time we rent the condo out to people from literally all over the world – the other 49 states (including Alaska), Canada and even Australia. We provide a high-quality accommodation at a very reasonable price, allowing people to come and enjoy one of the most beautiful places anywhere.

We oppose SB1031 on a number of grounds, particularly the requirement that the on-Island agent be either a real estate licensee or a custodian employed by just one owner. Needless to say, we couldn't possibly hire our on-Island contact to work solely for us – not with just one condo unit. Realtors do not have the special skills necessary to deal with issues like broken appliances, lockouts, ad-hoc maintenance and other such issues.

Our on-Island contact does: he is a skilled tradesman who lives and works nearby and is available on very short notice to deal with any problems that might come up quickly and with minimal inconvenience to our guests. An owner's agent who does not have those skills would likely call someone else, who may have other tasks at hand. That creates an additional level of response, leading to unnecessary delays and reducing the enjoyment of someone's experience on Maui. One might question, too, how much priority a realtor would put on a problem with a rental condo, if that problem came up while he or she was showing a property.

Most of all, we feel SB1031 goes against the spirit of Aloha that we find in such wonderful abundance in Hawai'i. We don't feel that we are renting out a condo: rather, we are sharing our home; we don't have customers: we have guests. We feel the requirements of this bill have the potential to diminish the experience of visiting Hawai'i for both our guests and ourselves.

From: [E. Ernisse](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Sunday, February 15, 2015 12:37:26 PM

Aloha Senator Kahele and Roz Baker,

Thank you for taking our testimony in relation to SB 1031! We live on Maui and have rented our condos on VRBO and Flipkey for the past 5 years. We pay all our GET and TA taxes monthly. We know many other owners on VRBO, who also pay their taxes, etc. We have a local contact in order to maintain our rental business and once again the real estate lobby is stepping in to obtain part of our business by employing them to be our real estate agent! There is NO need for this additional attack on our ability to make income from our property in Hawaii.

As owners of two units advertised and rented on the internet, trying to manage our own condos to make an income as seniors, we pay our property taxes and GET/TA taxes and are again being threatened with fines and a misdemeanor or a felony filed against us. We have difficulty understanding WHY we must continually testify to keep our rights to self-manage our own properties.

Mahalo for considering our testimony.

Ellen and David Ernisse 350 Luawai Street Lahaina, Maui, HI 96761

We are opposed to the requirement that "local contact" to now be an "on-island agent" who must be a licensed realtor or a custodian/caretaker who must be an employees and work for only one owner.

We support the requirement to have an contact who is resident on island

We oppose the requirement that the on-island agent be a real estate licensee

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. These bills fail to regulate the rate at which realtors can be compensated for this role.

We propose the language in ACT 236 in respect of “agent”, “on-island agent” and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson

Code HRS 467

From: [Eleanor Arita](#)
To: [CPN Testimony](#)
Subject: Opposing SB1031
Date: Sunday, February 15, 2015 3:01:17 AM

I am an owner of a vacation rental on Kauai. Ownership and renting is a model that works for us and that we enjoy managing. Our guests continuously say how much they enjoy the personal touch that we add as owners, not only with information about the rental, information about local businesses, safety on beaches, disaster information and how to be a good neighbor, but by provided a well cared for and beautiful property. As owners and " managers" we really care about the property and our guests.

Communciation is key, it builds a respect for our property and for the islands. Interruption of this process with an outside real estate agent will likely cause us to fold, the economic model will not work and an lag in response time when an issue arises is a killer in a rental business. We do have an on island contact, this works for us.

We are ambassadors for Kauai. This is a great model for us and for tourism. A number of guests decide on privately owned and managed vacation rentals. It is a growing business. Once again, the model is fragile.

We do support the requirement to have a contact who is a resident on island. Close communication with guests is primary to a successful and safe vacation rental. I strongly oppose the requirement that the on island contact be a real estate licensee. Realtors do not possess special skills to deal with the local management for guests, from prompt and dedicated status of amenities provided or provision of information in event of a natural disaster. Additionally they add an unnecessary layer of communication.

Owners have the most stake in the rental and pride of ownership. Any hawaiian resident who is trusted by the owner can handle these responsibilities.

The already fragile model for managing a vacation rental process can be disturbed by assessment of fees by real estate agents. . The vacation rental business by owner is about relationships. Who better to handle this directly than owners who are committed to offering high level properties and who regularly and in a timley manner collect and forward all state taxes as required. We are good neighbors and respect the neighborhood making sure that guests are aware of how they can contribute to the island spirit of Aloha. Please do not interrupt our contribution to the economy and to our ability to truly enjoy our property.

Respectfully, Eleanor Arita

From: [Elen Stoops](#)
To: [CPN Testimony](#); [TSL Testimony](#)
Subject: Hearing 2/17, SB1031. OPPOSE.
Date: Saturday, February 14, 2015 10:40:03 AM

Dear Legislators,

Thank you for the opportunity to provide comments.

Based on clear similarities with other bills brought forward over the past several years I shall assume that SB1031 has been introduced by Property Managers (aka licensed Tourism professionals).

I am an owner of a transient accommodation in Maui in a Hotel Zone. I have my certificate of registration, pay GE and TA taxes, have a local contact and provide the local contact information to my guests and post my taxpayer ID on all internet advertisements.

I Oppose SB1031.

All essential legal elements and assurances to the state, namely measures to support consumer protection and payment of taxes owed to the state are in place today and are enforceable by the appropriate agencies.

The naysayers, the ones looking to change the law with the introduction of this bill, conveniently aside important and irrefutable facts...

Laws exist today to support consumer protection and tax payment to the state and are codified into Act 326. The efforts to create this Act involved direct participation by the Key Stakeholders and many meetings.

Property Managers today are unhappy to see their share in the market for TVRs decline. As consumers tastes and travel styles have evolved, today's traveller, and especially repeat visitors and experienced travelers have discovered how to contract for lodging that more clearly meets their needs.

Traveler reviews play a significant role in identifying well run vs. poorly run VRs. Companies, Operators, and individual owners who self-manage are completely incentivized by this fact to ensure their guest experience was a positive one from the initial point of contact to their departure and beyond. The internet is therefore, by default, providing a consumer protection mechanism for Hawaii's lodging consumers and these reviews are encouraging visitors to choose lodging options that have received favorable reviews.

PMs motivations would have legislators ignore travelers' preferences and ignore the welfare and the rights of investor-owners of vacation grade real estate. Owners of vacation rentals are stewards of Hawaii who have worked hard to create and offer an attractive accommodation/lodging experience.

Rather than reflecting on changes affecting the travel industry and innovating to make their offering more desirable, PMs instead seek to influence legislators to pass laws to prop up an industry and reward it in spite of its failure to adapt. The most appropriate response by this industry should be to determine how to create more value for the tourist as well as the property owners, and to become attractive alternatives rather than a legalized mandate.

Property Managers have had ample opportunity to change their business model to make it an attractive and welcoming option for self-managing owners rather than a legal threat. Are they not listening or reading the hundreds of pages of owner testimony from the past several years that articulate our hesitations in turning the management of their property over to a third party?

Property Managers today charge the typical range of 20-50% of the gross proceeds --- for services I don't desire and easily perform myself and with the occasional aid of my local contact. I estimate that my paid local contact is receiving about 1% of my gross rental proceeds for activities performed relating to being a local contact.

Property Manager arguments are based in some truths and some falsehoods.

Claim by HAVRM: Millions of dollars in owed taxes are not paid by owners of VRs.

Fact: It is TRUE that not all taxes owed to the state are paid AND the amounts involved are likely significant.

But the devil is always in the details and those are not freely shared or clearly articulated and that's because they don't really support the objectives of the Property Managers. Among the largest reason for unpaid taxes is that there exist a very large number of illegal VRs.

The single largest source of illegal VRs exist on Oahu and this is directly tied to Oahu's failure and/or decision to NOT change their permitting laws for 30 years, and to apply insufficient resources to affect a crackdown. This has served to encourage the illegal, unpermitted VR properties to proliferate across the island and has had many unintended and serious consequences.

Property Managers do not have a role in solving this problem. It is up to the County to reassess their laws on providing permits and up to the County and State Administration to direct and provide proper support to the enforcement agencies to achieve the desired level of compliance.

Hawaii Association of Realtors testified in 2012 on a similar measure offering the following which is directly counter to HAVRM's claims that only licensed realtors can solve Hawaii's problems, namely:

" Real estate licensees may be in jeopardy of losing their licenses if they are involved in the management of illegal, nonconforming, or unpermitted transient accommodations".

So essentially what is being explained here is that the tax collections for 20KU unpermitted TVRs in operation will not be facilitated or improved by inserting a Property Manager into the picture for this problem, in fact it would do nothing at all.

Similar challenges for enforcement shall exist on each island, and the level of challenge will vary depending different circumstances in each area. The other islands have been significantly more proactive, however, in revising laws to be more relevant to changing market conditions and the needs of their residents. Each county has been addressing the island-specific problems of illegal TVR proliferation, just to a greater or lesser degree of success.

But there is no need for additional laws to help identify to the enforcement agencies who the law breakers are, rather there simply needs to be the will to enforce the law.

Act 326, and per the request of the DOT in its testimonies before HB2078 was enacted into law, require VR advertisers to show their Tax ID, thereby identifying themselves to the enforcement authorities.

In testimony the Director of the Department of Taxation (Frederick D. Pablo) the letter in full read:

"The Department of Taxation (Department) supports this measure.

HB2078 SD1 requires that all advertisements and solicitations for transient accommodations conspicuously display the registration certification number issued under the Department under Section 237-D Hawaii Revised Statutes.

The Department believes this measure will aid transient accommodations tax compliance.

Thank you for the opportunity to submit comments."

SB1031 does not provide for enhancement of protections for consumers or the collection of taxes for the state that are already provided by Act 326. Rather it is conceived to achieve personal financial gain for Property Managers in exchange for no additional benefit for the State.

The effect of this measure would be to transfer funds from permitted and registered TVR owners (but not the illegal, unpermitted, non-taxpaying ones) to Property Managers. Why would the legislation pass such a bill? It does not solve the State's problems.

Please refer to the RBOAA position in its entirety for SB1031 which states:

I hereby OPPOSE SB 1031, but propose amendments which, if adopted, would gain my support and the support of many others.

To legislate real estate licensees into a role between the tenant and the property owner would put Act 326 into conflict with both the Landlord-Tenant Code and the Real Estate Broker and Salesperson Code.

...

- The Real Estate and Salesperson Code (467-2) permits an owner to rent, lease and manage their own property.
 - The Landlord Tenant Code (521-43f) requires an agent residing on the same island as the property, but does not require the agent to be a real estate licensee.
 - Nowhere in either statute does the term “on-island agent” exist (nor does it need to exist).
 - The role of “local contact” was created in 2012 for the purposes of Act 326.
- I support the amendment being put forward by RBOAA to clearly align Act 326 with both HRS 467 and HRS 521.

"All owners of property who wish to offer transient accommodations must either: 1. Be an owner-operator who self manages, rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or 3. Engage the services of a real estate licensee."

The definition of “on-island agent” can then be logically deleted.. This is the position I fully endorse.

I support the State's efforts to administer and enforce Act 326 and ask you to vote NO on this measure.

Mahalo for the Opportunity to provide Testimony.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: peaceandaloha@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 12:22:47 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Ernisse	Individual	Oppose	No

Comments: Aloha, We live on Maui and have rented our condos on VRBO and Flipkey for the past 5 years. We pay all our GET and TA taxes monthly. We know many other owners on VRBO, who also pay their taxes, etc. We have obtained a local contact in order to maintain our rental business and once again the real estate lobby is stepping in to obtain part of our business by employing them to be our real estate agent! There is NO need for this additional attack on our ability to make income from our property in Hawaii. As owners of two units advertised and rented on the internet, trying to manage our own condos to make an income as seniors, we pay our property taxes and GET/TA taxes and are again being threatened with fines and a misdemeanor or a felony filed against us. We have difficulty understanding WHY we must continually testify to keep our rights to self-manage our own properties. Mahalo for considering our testimony. Ellen and David Ernisse Lahaina, Maui, HI 96761 We support the requirement to have an contact who is resident on island · We oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. We propose the language in ACT 236 in respect of “agent”, “on-island agent” and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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February 7, 2015

VIA WEB TRANSMITTAL

Committees on Commerce and Consumer Protection, and Tourism and International Affairs
The Senate 28th Legislature, Regular Session of 2015

Re: Hearing on SB 1031 (Oppose); February 17, 2015, 9:00AM, Conf Rm 229

Chairs Baker and Kahele, Vice-Chairs Taniguchi and English and Committees Members:

Having served as a director for 33 years and serving as President for 21 years of a PCA with over 15,800 units, the provisions of this bill imposed on associations representing homeowners, PCAs in particular are draconian and unconscionable with regard to the fines proposed for not reporting, and misdirected targeting of compliance for getting transient operators to pay their taxes, as follows:

Re: Fines proposed:

It seems incomprehensible that a piece of legislation would require an association of homeowners to pay a draconian and unconscionable formula for fines that when applied to this PCA would calculate out to be \$75.00 X 15,800 units totaling \$1,185,000.00, yes, over a million dollars, for failure to report information of a transient accommodation operator in the community, from which the State would get a tiny fraction of the operator's income in taxes.

In order to have considered this unconscionable fine formula, there must have been widespread experience where CAs have not reported the operators in the over 3,000 plus properties in the State, and thereby the loss of tax dollars would somehow justify this draconian and unconscionable fine formula. If done strictly as a preventive measure in anticipation of CAs contemplating not reporting, the rationale for the formula is clearly anti-CAs.

Re: CA Responsibility:

Stepping back, having CAs, associations of homeowners, be responsible for reporting information to the tax department, received from transient accommodation operators in the community, seems to be an unnecessary step in the process for getting information on transient accommodation operators so taxes can be collected from the business venture.

From a rational business approach, it would be a more cost effective to have these operators register and get licensed to run a transient accommodation in order to operate a business like the hotels and motels. Involving a third party, the CAs in the state, adds another dimension to this business of collecting taxes, especially when CAs only cover a percentage of homeownership. What about the ones that are not in CAs? What happens to the loss of tax revenues from these operators? Where's the equity?

Re: Appeals

With this one sided approach of draconian and unconscionable fines formula, who is to determine the validity of the accusation of not reporting and who is the impartial appellate entity to hear challenges to the charge of willfully not reporting?

The bottom line is that the formula for the fines are not in the best interest of the citizens living in CAs, but a punitive measure to gain compliance at all costs, regardless of dollars the homeowners could become liable for. The process is convoluted by involving unrelated and uninterested third parties, while only partially involving citizen homeowners in the state. There needs to be an impartial third party to hear appeals to the charge of willfully not reporting.

Accordingly, it is requested this bill be deferred.

Sincerely yours,

Eric M. Matsumoto

From: [Erick van Elk](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: OPPOSE SB 1031
Date: Monday, February 16, 2015 12:29:28 PM

We are owner-operators of a registered and tax-compliant vacation rental on the magnificent island of Kauai.

We have self-managed this rental since purchasing it in 1996.

We have and continue to follow the rules and regulations regarding vacation rentals in Hawaii and we are proud that we provide an affordable and comfortable alternative for people enjoying a trip to the beautiful Hawaiian islands.

In the time since purchasing our vacation rental we have contributed over \$43,400 in TAT and over \$7700 in GET from rental income alone. Of course we have contributed far more in GET via taxes on maintenance, repairs, upgrades, stocking and operating our vacation rental and of course there have been lean years and gaps in occupancy but we feel we have made a considerable contribution to taxes in Hawaii, and indirectly, to the other counties.

We have provided income to many local Kauaians who provide valuable and excellent services to us and to our guests, in fact, well over . Over The numbers are very, very significant

Frankly, we are astounded that the fine legislators of Hawaii would want to put our successful employment and tax-contributing vacation rental out of business.

Therefore, we thank you for considering our comments in **opposition** to SB 1031:

We assume that the intent of this legislation is to improve tax compliance from Transient Vacation Rentals and is not to favor a particular business entity such as Real Estate Agents/Brokers or Property Managers.

Under that assumption we cannot see how forcing legitimate owner-operators who are fully compliant with all laws and regulation to turn over their business to a real estate agent/broker is going to do anything to generate compliance from those who operate outside the law.

In fact, it would seem to do the opposite – drive those avoiding the current regulations further underground while punishing those who are obeying the regulation with a significant financial penalty in the form of broker fees.

Seriously negative tax implications arise as a result of the many tax compliant operators who

will have to cease operations due to negative cash-flow or because they do not wish to turn over their business to a third-party. Many who have written in on this topic have spoken to the slim cost-benefit of vacation rental, many have recounted bad experiences with rental agencies and many have indicated the pleasure they derive from the interaction with guests. We concur with all those comments.

Other negative consequences would be devaluation of the vacation rental market as people unable to maintain a vacant on island residence are forced to sell and only those who can afford the negative cash flow of a vacant or broker-operated unit will purchase. Those fortunate individuals are small in number.

These changes will harm tourism as the affordable option of vacation rentals will decline and tourists will look at other more affordable destinations.

Kauai County (where we own) taxes will be negatively impacted via a smaller amount coming from reduced TAT and GET and less property taxes coming in as residences currently taxed as vacation rentals will be reclassified into a lower tax category. Property taxes could even evaporate if market price erosion causes another wave of foreclosures and bankruptcies by owners unable to sell their vacation rentals and so are forced to walk away from them.

Perhaps the most unfortunate impact of this law would be the loss of income to thousands of local people who provide services to private vacation rentals in the form of on island contacts, housekeepers, repairmen, tradespeople and others.

Mahalo nui loa,

Erick van Elk

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: fmartorana@malawyer.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 11:00:47 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Frank Martorana	Individual	Oppose	No

Comments: I believe that this bill if passed would significantly harm Hawaii's tourist industry by significantly increasing the cost of condominium rentals. By requiring each owner to have a dedicated rental agent will be expensive and drive up the cost condominium vacation rentals. This will reduce the number of tourists coming to Hawaii. The condominium alternative to hotels provides a great source of affordable vacation units unmatched by hotels. This bill if passed could significantly reduce this source and thereby significantly harm Hawaii tourism and the amount of government tax revenues.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: fbhall@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 12:15:04 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Fred B Hall	Individual	Oppose	No

Comments: This bill was tried couple years ago and FAILED. Why again?

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From: [Gayle @ Vacation Condos In Kona](#)
To: [CPN Testimony](#)
Subject: STRONGLY OPPOSE SB1031
Date: Thursday, February 12, 2015 9:14:05 AM

Attn Congressman,

STRONGLY OPPOSING SB1031

THIS BILL INFRINGES ON OUR RIGHTS AS U.S. CITIZENS TO RUN AND CONTROL OUR OWN VACATION RENTALS THAT WE HAVE WORKED VERY HARD AND OBTAIN AND BE ABLE TO AFFORD. BUT YET YOU WANT TO ADD MORE EXPENSES ONTO OUR ALREADY HIGH OPERATING EXPENSES FOR OUR HOMES BY FORCING US TO PAY SOMEONE TO DO WHAT WE DO VERY VERY WELL. THIS WILL BE BAD NEWS FOR HAWAII BECAUSE MOST OWNERS WON'T BE ABLE TO AFFORD IT AND WILL BE FORCED TO SELL THEIR 2ND HOMES AND IT WILL DRASTICALLY AFFECT THE ECONOMY FOR HAWAII BECAUSE NO ONE WILL BUY PROPERTY IN HAWAII IF THIS LAW PASSES.

This Bill is Ridiculous, You are just trying to make it difficult for Owners to Own Property in Hawaii which brings in Most of the Tourist Revenue for ALL Of the State of Hawaii.

I also oppose any measure that would limit a local contact from being able to serve more than one owner as long as the local contact does not rent, offer to rent or collect rent for more than one owner.

Owners and their On Island Contacts Support and Serve All Rentors more than any On Island Realty or Management Company as you cannot reach them After Hours or on Weekends. The On Island Contact that Owners have chosen have Agreed to be Available 24/7 and They do an Outstanding Job and can be the contact person for many many units at the same time. They are Excellent At being a Contact person for multiple units.

This is like saying Realty Companies can Only Represent One possible Buyer at a time. Extremely Ridiculous.

I BEG YOU CONGRESSMAN, DO NOT PASS THIS LAW AND MOVE ONTO OTHER IMPORTANT ISSUES THAT NEED YOUR ATTENTION RATHER THAN WASTING VALUABLE TIME ON THIS AND BRINGING THIS UP EVERY YEAR AND THREATENING US WITH IT.

Signed,

A Very Concerned Owner in Kona,

G. Mackey

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: partnersinparadise@verizon.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 10:35:45 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Skardina	Individual	Oppose	No

Comments: Hawaii government needs to stop this assault led by Oahu realtors to take the vacation rental business away from owners who bring an enormous amount of tax revenue and tourism revenue to the State. If Bills like this pass many private owners will sell their properties and the Tourism industry and all associated industries will pay the price. No GET or TAT is just the beginning- Property taxes will raise for locals and tourism will fall due to higher pricing for Hawaii accommodations due to increased costs resulting from Bill such as SB 1031.

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My name is Gene Phipps and I have been an owner/resident and vacation rental provider for 14 years. Our worst nightmares have been when we had property managers from real estate offices manage our properties. We have had two (Knutson and Hawaii Resort Management) and both companies were irresponsible. One company (Knutson) even rented our condo without telling us and pocketing the money. Hawaii Resort Mgmt double booked our condo and did not respond to our guest at 11pm at night. We had to handle the situation because there was no one available in their office.

We have always paid our GE and TA taxes. Demanding that owners use a licensed realtor or management company is not the answer. The state needs to tighten the tax compliance and monitor vacation rentals more closely. Map areas where vacation rental is allowed and not in residential areas. Zoning should be at the top of the list for a permit to lease out your home for vacation rental.

Reasons against sb1031

- 1) a glut of vacation rentals that property managers and real estate managers will not be able to take care of or oversee properly
- 2) Foreclosures because owners will be unable to pay their mortgage due to high management fees that reduce the amount the owner receives by 20-30%
- 3) HOA fees unpaid because owners will be unable to afford to pay the increase causing other owners to take up the slack for missed HOA fees and causing further foreclosures

PLEASE VOTE NO ON SB1031. THIS IS A BAD BILL AND DECISION.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: geoff.scotton@frontier.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Friday, February 13, 2015 11:22:44 AM

SB1031

Submitted on: 2/13/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Geoffrey Scotton	Individual	Oppose	No

Comments: Thank you for the opportunity to provide testimony to SB1031. I have owned and operated a legal vacation rental property on Maui since 2002. During that time I have been in full compliance of regulations and GE and TA tax payments. I understand the need to ensure that self-managed vacation rental properties have appropriate local representation. However I believe that the existing law provides the necessary provisions to ensure that the Hawaii vacation traveler interests and the property owner interests can all be met. This does not require further burdensome legislation that is only going to make compliance more difficult for legal/compliant self-managed vacation rental property owners. Specifically I take exception to the change in the name from "local contact" to "on-island agent". The name change is not innocuous, but rather is one more step in the direction of designating that an "on-island agent" be a licensed real estate agent or broker. The original term serves the need for the responsibilities identified by the act and should remain unchanged. Furthermore, the requirement that any such "on-island agent" may perform in that role for only one operator is completely onerous. As there are many thousands of such self-managed vacation rental properties, the demand for such personnel would clearly exceed the number of available candidates. Similarly the potential "on-island agents" would be not be adequately compensated through a single property owner. If such a limiting staff to property ratio is thought to be necessary (for reasons I do not understand), why is this burden also not placed on staff performing similar functions for real estate agent/broker managed properties. Please do not pass the the changes proposed by this bill, as it would have very deleterious impact on the owners of vacation rental properties to continue to self-manage those properties. I know for myself, and suspect for most other self managed properties, that turning the properties over to professional management operation would ensure that I would not longer be able to afford my ownership of the property. Thanks you for your consideration. Geoff Scotton

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webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: georgehu@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Tuesday, February 17, 2015 7:27:22 AM

SB1031

Submitted on: 2/17/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
George Hu	Individual	Oppose	No

Comments: I am an owner of two vacation rental condominiums and paid about \$24,000 in GET and TAT taxes last year. The changes to define the contact as a realtor or employee of a realtor who can only operate for one unit are unreasonable, and more importantly, do not protect the tourists, government, or residents. These modifications would cost jobs for residents by restricting who can do this work, create extra paperwork and costs, and those raised costs may result in job loss. The tourists are not further protected by this change and costs may have to be passed on to them. Please do not pass this legislation.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: gerrybarb@shaw.ca
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 6:17:24 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gerry & Barbara Clark	Individual	Oppose	No

Comments: Trusting a realtor to properly fulfill the requirement of an on-island agent cost me money last time. The trust account that was to have been kept was not, leading to a one year delay in receiving my money. Secondly, indicated rentals, indicated by our electric billing, were not reported by this agent. We have a trustworthy agent now who is responsive and lives in close proximity. We have had no problems and don't wish to attract any by using a realtor. We strongly oppose this initiative. Please stop the pandering to the realtor industry.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: jev2@bellsouth.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 2:40:40 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jack Vandelaar	Individual	Oppose	No

Comments: I STRONGLY OPPOSE THIS BILL! NO ONE WANTS THIS,
ESPECIALLY THE REAL ESTATE AGENTS IT EFFECTS.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: Jan@SunshineRainbows.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 9:47:37 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Shields	Individual	Oppose	No

Comments: This year we have and are paying local workers \$120K in wages. We are at the level we can attract tourists. We cannot succeed if we must keep raising our prices. If we fail, our heavy TAT taxes and GET taxes will also go away. People will lose jobs and their taxes will fail. Companies that service the Vacation Rentals such as electricians, plumbers, remodelers etc. will fail, and not pay taxes. If you keep trying to destroy the vacation rental industry with over regulation it will not help the state, it will hurt the state. There is a limit people will pay to come here. We need to choose our own on island representatives. The realtors will have heavy prices. There are already huge costs involved. I pay \$153.12 for everytime i have the condo cleaned for example. This is weather i rent out for 3 days or 21 days. If you are trying to destroy our Maui Vacation industry, you are going to. Better idea: Keep us going, we pay big taxes, we employ local workers and companies who then employ local workers an our economy helps support the state. Destroy the Vacation Rentals, and you destroy the economy. Our families don't want to stay in a cramped hotel room. We have 3 and 4 guests at a time paying for restaurant bills, transportation, shopping, etc. So we need to be able to run our own businesses, and give the great service we give, without over regulation. Sincerely, Jan Shields Vacation Rental Owner 808-250-2222

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: jmszdv@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 7:52:31 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
JaNell McCullough	Individual	Oppose	No

Comments: There is no need for realtors to control the rental of my condo. It is greed on the part of real-estate people. We function very well, have happy guests and have a quality vacation rental with out any interference from Realestate infulances It is not necessary for more outside controls on our rental. Thank you,

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: janethoch@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 6:02:47 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Hoch	Individual	Oppose	No

Comments: We support the requirement to have an contact who is resident on island
· We oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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February 16th 2015

Dear Hawaiian Legislators

Re: HB 803

Mahalo for the opportunity to testify.

I STRONGLY OPPOSE SB1031.

We became owners of a vacation rental property in Ka'anapali in 2011 at a time when the real estate sector there was suffering and investors including Canadian investors were highly sought. We looked at all the aspects on the investment and came to some conclusions. First of all the property was zoned for hotels and vacation rentals were encouraged so we determined that ownership would be legal for short term rentals and we could later segue into a sometimes retirement home at a later date. We looked at what the Hotel portion of the Complex charged and at 50% of revenue the numbers did not make sense. We then looked at several Third party Property Managers and their rates at 30 to 40 % were also prohibitive. We researched the possibility of managing the property ourselves as we have done with our vacation property in Whistler B.C. and found that the investment then made sense. As active travellers we have rented from owners around the world and find that the care and attention you receive from an owner far exceeds the experience of some faceless property manager. We weighed the options and decided to purchase at Honua Kai.

We immediately registered for a business licence, started collecting and remitting GE and TA tax and we received our ITIN upon filing our 2011 taxes with both the IRS and the State. We now remit the TA and GE monthly and submit to both the IRS and State on a quarterly basis. We have our tax ID posted on our websites and we have our on-island representative contact information in our rental agreement and posted in our units. We strongly support the efforts of the Hawaiian Legislature in regulation Transient Accommodation and the collecting of all taxes owed and we feel that the regulations that were enacted when the earlier form of this Bill were considered in 2012 were the way to go.

Rental Property Managers and Realtors do not have a vested interest in providing the Hawaiian guest with a special experience as each condo they manage is just another number to them. My on-island representative does an excellent job BUT the world is now a virtual place so we also respond by cell and email instantly to our guests and between the both of us provide the spirit of ALOHA that our guests are in search of. We have 88 Five Star reviews in VRBO, our Hotel itself has dropped steadily in the Trip Advisor rankings which underlines that today's traveller wants the personal attention that dedicated owners provide.

I will include a couple of comments from recent guests. These guests love Hawaii and they love the extras that individual owners provide to them.

From Michael M from Snoqualmie Wash

“The homeowners, Terry and Jill, couldn't have been more accommodating. From the very first email inquiry to the day we arrived and during our stay, they were always on top of it. Renting from them was very easy. One morning our coffee pot went kaput. I emailed Jill and we had a replacement later that afternoon. We could not have asked for more prompt, faster service. They are awesome.”

From Mike A

Amazing!! 7 out of 5 Stars!!

“Owners: Jill and Terry were accommodating from start to finish and so easy to work with. Jill is quick to return calls if she doesn't answer the phone and she will take all the time you need answering questions. She provides detailed instructions in emails and with the welcome booklet in the condo. She makes renting the condo fool proof! I already know that when I return to Maui I will stay at Honua Kai and Jill has made that decision even easier because there is no one else I would rent from. I called a few other property managers in my search for a Vacation rental and trust me.”

This is but excerpts from two of over 80 reviews. I suggest that you to read the reviews on Trip Advisor and note the many complaints from guests who have stayed with Hotels or with SOME Property Managers as to poor or impersonal service and lack of detail. You can see why there has been a huge growth in the VRBO sector as owners are providing what today's traveller is seeking.

As Legislators of the great State of Hawaii it is in everyone's interest to have raving fans and repeat travellers as this is the foundation of the Hawaiian tourist industry. Turning this industry over to a monopoly of Realtors and Property Managers will NOT solve the problem of illegal transient rentals and it will not enhance the Hawaiian tourist experience.

I OPPOSE SB 1031

Respectfully submitted,

Terry Gardiner

K244 130 Kai Malina

Lahaina Hi 96761

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: Goingmaui@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 5:02:28 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jim & Sue Keithahn	Individual	Oppose	No

Comments: We oppose the requirement that the on-island agent be a licensed Realtor. This requirement is arbitrary and discriminatory, based on no factual information that supports the need for this change that will effect the lives and livelihood of thousands of both on-island and off-island owners and businesses. We propose the language in ACT 236 in respect of "agent", "on-island agent" and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: jimelder008@earthlink.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 8:51:06 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Elder	Individual	Oppose	No

Comments: Why are we being forced again to fight the same bill we won 2 years ago? We oppose requiring on island agent Realtor as opposed to our on island contacts. This is not a function that requires any licensing; realtors don't have any particular skills to assist with the types of problems that rentals have, such as trying to repair appliances, garage doors, electronics, electrical or plumbing issues, lockouts, etc. There is no reason to single out one particular profession to take over and monopolize our homes; and how is compensation going to be handled when every home is different. Our contacts are perfectly capable, do an excellent job, and they do not want to be EEs.

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From: jimstofer@comcast.net
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Saturday, February 14, 2015 3:37:23 PM

Aloha, As an owner of rental units for over 7 years, I want to voice my opposition for HB 803. This type of bill has been proposed several times in the past. There is no solid evidence that this help owners or the state. I have used licensed real estate agents in the past and have found them less responsive to my renters and my own needs. I agree that my contact should be on-island, but having a requirement of a real estate license does not guarantee a better experience (in fact, I found it worse since I didn't account for much money for them). There is no fiduciary responsibility, so I don't understand how this helps the state. Collection of taxes from individuals who don't pay or report could be done in many other ways (why not start a confidential reporting service). Also, to only allow a custodian to work for one client is restraint of trade. My on-island contact would not be able to make a living as I only have a few transactions for them per month. Please refer to ACT 236 for language that makes sense for situations such as mine.

Mahalo, Jim Stofer Hali'i Kai

From: [Joe Gatlin](#)
To: [CPN Testimony](#)
Subject: Opposition to SB 1031
Date: Saturday, February 14, 2015 4:03:38 PM

Dear Senator Baker

We are sending you this email to register my opposition to SB 1031.

We support the requirement to have an contact who is resident on island.

We oppose the requirement that the on-island agent be a real estate licensee.

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.

These bills fail to regulate the rate at which realtors could be compensated for this role.

We propose the language in ACT 326 in respect to “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

We employ an on-island agent who looks after our property when we are the mainland. We pay all the required taxes to the state of Hawaii. We use local handymen to repair and maintain our property. Tourists are able to come to the island of Maui, because we offer our condominium at competitive prices – to the benefit of all who live on this island, because it improves the state’s economy.

The big hoteliers and some real estate agents oppose us, because they cannot stand the competition. Other condominium owners like us force these parties to be more efficient, which is what capitalism is all about.

Thank you for your consideration of our position.

Sincerely,
Joe and Linda Gatlin
Maui Kamaole
Kihei, Hawaii

Joe Slabe
C312, 2531 S Kihei Road
Kihei, HI
96753
joeslabe@hotmail.com

Aloha,

I am writing to OPPOSE SB 1031.

While I support the requirement to have a contact who is resident on island, I OPPOSE the requirement that the on-island agent be a real estate licensee for the following reasons.

1. The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.
2. Realtors possess no special skills, which would be relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.
3. Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.
4. These bills fail to regulate the rate at which realtors can be compensated for this role.

I would propose, instead, that the language in ACT 236 in respect of “agent”, “on-island agent” and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

Mahalo for your time and service to the people of Hawaii,

Joe Slabe

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: donutking22@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 7:15:44 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Joel Goldman	Individual	Oppose	No

Comments: I agree it's a good thing to have an on island agent, but do not understand what forcing me to use a realtor for this purpose serves. Why is a realtor better suited to dealing with lock-outs, broken appliances, or housekeeping. Any responsible Hawaiian resident could handle these responsibilities. At one point I did have a realtor handling my unit and they rented it maybe 4 times the whole year. This did not leave a good feeling about using a realtor again. Adding this to the measure will only increase my operating expenses, without providing me or the consumer any additional protection. I hope you will not pass this bill and/or at least remove this requirement.

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From: [John & Janet Crews](#)
To: [CPN Testimony](#)
Subject: Opposing SB1031
Date: Sunday, February 15, 2015 2:45:49 PM

My wife and I would like to express our opposition to one important portion of bill SB1031; "Replacing the term "local contact" with "on-island agent". We agree that it is important to have a local contact so that renters will have someone to contact and help them with any issues. We take great care in who we choose as the local contact for our rental property on Maui. We have yet to find a realtor who we feel is nearly as qualified as the maintenance people that we hire to take care of our unit. As a former realtor myself, I do not feel that the sales skills and education of a realtor makes a person particularly qualified to deal with the issues that may come up with visiting renters. However, I do see problems for us in terms of what a monopoly in this field may allow realtors to charge for this service, and conflicts with their busy schedules dedicated to the buying and selling of real estate that may conflict with prioritizing the needs of our renters.

We ask that you retain the requirement for a "local contact", and not allow the real estate lobby to use this as an excuse to create an additional source of income for them through a state enforced monopoly.

Thank you for considering our views on this issue.

[John Crews](#)

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: jd@thegrandcanal.us
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 6:08:05 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
John Denissen	Individual	Oppose	No

Comments: Please stop harassing vacation home owners. We've paid more than \$10,000 a year for the 12 years we've been doing this. Stop pandering to the realtors. They have already proven that they are not capable of providing the service we provide ourselves. Realtors are NOT your only constituents. Millions of dollars come in to Hawaii from the guests who stay at homes like ours. We are "mom & pop" businesses. We get by-- sometimes barely. But visitors are thrilled to experience Hawaii this way. WE DON'T NEED MORE REGULATION AND BUREAUCRACY. Nothing is broken here-- stop meddling and trying to "fix" it. You are hurting locals who have invested their life savings and take pride in our work. You are also hurting visitors with this bill.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: john.eckel@pinninvest.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 2:47:07 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
john eckel	Individual	Oppose	No

Comments: I own a vacation property in Maui which I hope will eventually be my residence in retirement. In the meantime I visit on vacation and rent to guests to pay for the expenses of the property. I fully abide by all laws and pay all taxes. And I pay the people who care for well – on average more than \$50 per hour I Oppose SB1031 There is no reason for the local contact to be a realtor. What does it take to call a plumber other than the ability to use a phone and a phone book. Realtors have no special training in this area and most people are capable of doing this function. Indeed, even though I have had an on-island contact for over 25 years, most to my guests contact me directly by phone or email. I then resolve the problem by phone or email as quickly, and with more incentive than an on-island contact since I rely on referrals and good reviews for future rentals. It seems very apparent that this bill is being pushed by the self-serving interests of those who would gain a competitive advantage by adding this additional requirement to the owners of transient vacation rentals. As a result, passage of this bill would not help legitimate competition, the Hawaiian economy, future investment in Hawaii, or the reputation of Hawaii as a fair place to do business. Thank you for considering my testimony.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: karen@hono-nalu.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 7:41:22 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Howard	Individual	Oppose	No

Comments: My husband and I own a rental property in Kauai; we support the requirement to have an contact who is resident on island. HOWEVER: We oppose the requirement that the on-island agent be a real estate licensee because: -The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. -Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. -Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. -These bills fail to regulate the rate at which realtors can be compensated for this role.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: katman.ca@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 10:07:24 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kathie Wagner	Individual	Oppose	No

Comments: This will only hurt the tourism industry as all prices will have to be increased and shorter stays will be done by vacationers. As well, we already employ a local Hawaiian as our contact. This would affect her job as well.

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From: [Kathie West](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Oppose 1031
Date: Sunday, February 15, 2015 6:50:59 AM

Aloha,

We DEFINITELY OPPOSE 1031! There are many reasons why we oppose it.

However, we support the requirement to have an contact who is resident on island
Yet, we oppose the requirement that the on-island agent be a real estate
licensee because there is no need for a licensed real estate agent to care for a broken
ceiling fan, leaky faucet and other maintenance issues. We need a reliable on-island
contact, which we have.

Keeping expenses low for an owner is imperative. There is no huge revenue coming
from rentals because of normal high expenses. If there is a requirement to pay a
licensed realtor a high fee, it will mean that many owners will no longer be able to
afford keeping a rental.

There is no need for this requirement! Please use sound reasoning and don't change
what we don't see as broken. It is only for the realtors to make money and have a
monopoly.

Kathie West
[goWEST! Travel](#)

Where would you like to go this year?
I'll help you get there at a great price.
530.273.3003

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: sheehan.kathyharnett@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 2:28:05 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Sheehan	Individual	Oppose	No

Comments: We support the requirement to have an contact who is resident on island. We oppose the requirement that the on-island agent be a real estate licensee. The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Further, realtors possess no unique skills that are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible on-island Hawaiian resident can handle these responsibilities. Designating a single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement only creates a near monopoly. There is no economic justification for such a monopoly. Enacting this bill will only drive up costs and drive away tourists who now contribute to Hawaii's economy.

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From: [Kathy Doran](#)
To: [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Saturday, February 14, 2015 4:21:33 PM

Dear Ms. Baker,

I would like to register my opposition to SB 1031. I am an owner of a vacation rental in Kona. I have always paid my taxes and operated within the law. I have owned several properties over the years working up to this house, which was supposed to be my retirement home. However, I got caught in the real estate meltdown. I am a teacher and I don't know if I'll ever be able to retire and move to Hawaii but this bill would put one more house in foreclosure. I can not pay commissions and management fees. I lose money every year as it is and I do all the bookings myself. I spend about 4 hours a day actively managing my property. I also have a wonderful on island property manager who takes care of my home and several homes for other people. She is honest and very attentive to the needs and problems of guests. That is her job. She is not busy showing listings or managing a real estate business. I have had registered real estate agents as managers before and the experience has not been good, from neglect of the property and guests, to putting in old shoddy appliances and charging me for new ones, and even renting it without my knowledge and not reporting the income to me or the state. Please understand and help others in the legislature understand that this bill would be a disaster for the state of Hawaii hurting tourism and the housing market as many of us would lose our homes. Mahalo, Kathy Doran

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: kelli@xmission.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 4:14:22 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kelli Lundgren	Individual	Oppose	No

Comments: Dear Legislators and Committee Members evaluating SB1031, I am writing to oppose bill SB1031. Please let me explain. I directly own and manage two condos in Hawaii since 2011 and 2012. I calculate I have paid the great State of Hawaii in Year 2014 alone, excise, transient accommodation, and property taxes totaling \$14,926. I feel like collecting these monies for the state, and paying full-tiered vacation condo property taxes helps the community and brings in well-needed state revenue. The personal rental revenue I receive from renting the condos helps me cover many high costs such as HOA fees (\$16,800 for 2014 for the two condos plus utilities such as high power bills, etc.) Yet if the state were to force vacation condo owners to use property managers or real estate agents, many owners I believe would get out of the business of vacation rentals. It is cash intensive. Some years we make extra money, some years, break even, some years, negative cash flow. But the bigger obstacle is this: agents and property managers charge around 35% of revenue (they may tout a lower percentage, but managers add incidentals constantly from what my condo owner neighbors express with anguish). Owners may have to scoop into savings to pay to maintain condos each year while the property manager is guaranteed a profit, because property managers pass on unanticipated expenses to owners. If you want to see vacation rental values plummet, and rentals go off the market fast, passing this bill I believe would achieve this. I realize for agents and property managers, this would be an excellent law... a burst in revenue for them. But for Hawaii, I'm not so sure. Will the state receive more tax, or less, because people will get out of renting due to the fact it stops making economic sense? I also realize the dilemma for the state: too many property owners are not paying the excise and transient accommodation taxes. Many times I lose a condo rental to another owner or property manager because I quote and charge the tax, and they don't. I feel the pain. I like the current route the state is taking: to have vacation rental owners fill out and sign a yearly declaration, and follow through in enforcement as a state. It would be "revenue beneficial" for the state to make this effort. It would be good to see enforcement of all rental owners to pay the taxes. However, handing over our properties to real estate agents to "rent" and not even maintain (owners still maintain, or pay to fix what agents do and don't do to "someone else's" home). With this dilemma in mind, you will see a scramble out of the market. Owners will not give their homes to agents to use and possibly abuse. Many owners will list and try to sell their

condos. With a sudden glut of condos, values will dip. Or, owners will just use them solely for personal use. This will result in fewer vacation rentals available. Tourism could weaken from fewer options. I don't think real estate agents managing our properties are a good idea. It may backfire for all. Aloha and Mahalo, Kelli Lundgren

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: mahana1213@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 7:24:40 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth Green	Individual	Oppose	No

Comments: I am the proud owner of a studio condo on Maui called The Mahana. I have owned for 11 years. I am retired and I rent our condo myself. The income basically pays for the costs of the condo and we spend 6 - 8 weeks here in the Winter. My tax ID is W30049908-01. I originally rented through Aston but they did not properly clean our condo and they took 45% of the rental income. I was working at the time and the income was less important then. I decided to rent myself. I found a wonderful on island agent who cares for our condo and we are very pleased. I know that the Realtors are trying to get legislation forcing all owners to rent through them in an effort to increase their profits at the expense of the owners. I have flown to Oahu and testified twice in the past and the bills have not passed. I ask that you keep the on island agent as it is presently and not require a realtor. I understand that there are about 10,000 rent by owner units in Hawaii and I assure you that the Realtors could NEVER take on that additional responsibility and rent these units, and serve our clients satisfactorily. I will have to sell out lovely condo because of the loss of income. Thank you for your consideration. Kenneth Green 110 Kaanapali SHore Pl. Lahaina, HI 96761

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: kevinbrown9999@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 5:28:19 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
KEVIN BROWN	Individual	Oppose	No

Comments: I Opposes this bill · I support the requirement to have an contact who is resident on island · I oppose the requirement that the on-island agent be a real estate licensee The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. These bills fail to regulate the rate at which realtors can be compensated for this role. · I propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Respectfully,

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: kaymadnani@hotmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 7:16:29 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Koshu Madnani	Individual	Oppose	No

Comments: We support the requirement to have an contact who is resident on island
· We oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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From: [KrellersGetaway](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Sunday, February 15, 2015 6:40:24 PM

Aloha Senator Kahele and Roz Baker,

We support the requirement to have an contact who is resident on island

We oppose the requirement that the on-island agent be a real estate licensee

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.

These bills fail to regulate the rate at which realtors can be compensated for this role.

.

We propose the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

Please consider all of this information and please oppose SB 1031.

Mahalo for your time and understanding,

Brad and Wendy Kreller

From: [Linda Mitchell](#)
To: [TSI Testimony](#); [CPN Testimony](#); [Sen. Gilbert Kahele](#); [Sen. Roz Baker](#)
Subject: Opposing SB 1031
Date: Sunday, February 15, 2015 6:43:26 PM

I am Linda Mitchell, an owner of two transient rental properties. I OPPOSE SB 1031. I manage the properties myself, and have close personal contact with satisfied guests. Over a period of several years, I have received all 5 star reviews from my guests.

I have been through the experience of having a big property manager. During that time, I had to get the vast majority of my own bookings, and the service to the guests was non-existent. One guest told me he had called our "managers" a couple of times, and they had not returned his call. I assured him that they would not return his call because they didn't bother to return my calls either. It was good that he contacted me because I worked on solving his problem and reassured him that I cared about his experience. At the end of the year, I was charged an extra fee because I obtained so many of the bookings for that year. I realized I had to take on full management of my tax paying business. (Not only do we pay GET and TAT every month, but we pay the highest rate property taxes too.)

I OPPOSE SB 1031, but propose amendments which, if adopted, would gain my support and the support of many others. I agree with RBOAA's position on this proposed bill.

The on-island contact has no fiduciary responsibilities and does not need to be licensed or regulated. Why should one professional body be given the right to a near monopoly? This would be a hinderance to my successful business.

To legislate real estate licensees into a role between the tenant and the property owner would put Act 326 into conflict with both the Landlord-Tenant Code and the Real Estate Broker and Salesperson Code.

- The Real Estate and Salesperson Code (467-2) permits an owner to rent, lease and manage their own property.
 - The Landlord Tenant Code (521-43f) requires an agent residing on the same island as the property, but does not require the agent to be a real estate licensee.
 - Nowhere in either statute does the term "on-island agent" exist (nor does it need to exist).
 - The role of "local contact" was created in 2012 for the purposes of Act 326.
- I support the amendment being put forward by RBOAA to clearly align Act 326 with both HRS 467 and HRS 521.

"All owners of property who wish to offer transient accommodations must either: 1. Be an owner-operator who self manages, rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or 3. Engage the services of a real estate licensee."

The definition of "on-island agent" can then be logically deleted.

Thank you for considering my stand on this ill.

Sincerely,
Linda Mitchell
408-472-6506

February 15, 2015

Aloha and thank you for considering my statement.

I oppose SB1031 for many reasons.

I do support the requirement to have a contact who is resident on island, but oppose the requirement that the on-island agent be a real estate licensee. I earned my brokers license in California but saw no relationship in that education and experience that would help me run a legitimate vacation rental.

The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Property owners should be able to choose someone they trust, with the skills and experience to manage their assets.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaii resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. I am a business consultant and business owner and my clients (property owners and guests) are thrilled with the level of quality service.

These bills fail to regulate the rate at which realtors can be compensated for this role and with a monopoly it surely wouldn't be fair to off island property owners. In fact, some of my clients would be devastated by this action as they are dealing with the affects of the recession, assessments, building shut downs for repairs and other issues.

In terms of those of us who are already in the business, we would either be put out of business because of the requirements or have to invest money in licensing that does not pertain to the job at hand. You

would end up with a pool of licensed agents who are not necessarily the best representative for off island owners or the industry as a whole.

We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

I thank you for your consideration.

Mahalo,

Lisa

Lisa Berg
808-633-6281
Lisa@LisaBergCoaching.com
3666 Lower Honoapi'ilani Rd. #A8
Lahaina, HI 96761

From: [mauibeach](#)
To: [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Monday, February 16, 2015 2:41:04 PM

Dear Senator Baker,

Heading the committee charged with consumer protection, I think the following information may be of interest to you.

I am writing to ask you to oppose SB 1031, which will be a bad thing both for visitors to Hawaii, and for vacation rental owners as "consumers" of cleaning, maintenance and guest services.

My husband and I live in Washington State, and have owned a condo on Maui for over ten years. We presently rent it out when we are unable to be there, with the hope of retiring there (possibly working part time) in a few more years. We may be off-island owners now, but the day will hopefully come before long when we are on-island residents and voters. We know a number of other owners currently renting out their condos, who plan the same thing.

We love Maui, care about its financial well-being, and have always paid Hawaii 100% of the taxes that apply to our Hawaiian rental activities. Every other "off island" owner we know on Maui does the same thing. I personally know zero Maui vacation rental owners who are tax-evading scofflaws, although apparently someone is trying to falsely paint off-island owners as such, perhaps in the service of advancing their own agenda. Given that we all file Federal income tax returns that include our Maui balance sheets, though, I cannot imagine how or why any legitimate owner of a licensed vacation rental in Hawaii could or would not report the same data to Hawaii.

We understand that the real estate lobby in Hawaii has been working hard for years to promote legislation to force off-island owners into hiring real estate professional owners to manage their Hawaiian properties. While I know several wonderful realtors on Maui, their companies unfortunately don't do property management, and our experiences with the real estate professionals we have hired on Maui to do property management for us have not been good. I thought that it might be helpful for you know what it has actually been like for us as off-island owners, and for our guests, with realtors/real estate agents vs. individual contact persons managing our place. I suspect legislators would not be in favor of forcing off-island owners to hire ONLY licensed real estate professionals to "property manage" our vacation rentals if they knew what frequently happens to guests and owners when real estate professionals do that job.

We, as owners of a vacation rental on Maui, work very hard to create a fabulous visitor experience for all our guests, and feel you should know that, in our experience, and in the experience of many of the other owners we know who rent out their condos at our resort, independent contact persons perform their duties towards our guests with much more

enthusiasm, responsibility, and aloha than do licensed real estate professionals and their designees. If you want visitors to the island to have a wonderful stay, feel valued, and want to return, please understand that it is the "individual" contact person/cleaners, and not the majority of licensed real estate professional/property managers, who really care and go out of their ways to create a great visitor experience.

Unfortunately, in our experience, the real estate professionals who provide property management on Maui seem mostly to be in it "for the money" rather than because they are interested in offering services to Maui visitors or vacation rental owners. At least in Maalaea, realtor-based property management has always operated as a kind of cartel. Only three agencies did property management there, and if you tried to hire a Maui realty company outside those three to property manage in Maalaea, they would tell you that Maalaea "belonged" to the other three companies, and that they couldn't manage your condo there!

Now the real estate lobby would like to use the legislature to pass laws forcing off-island owners to purchase their services, because they want a "cut" of the owners' rental income (which-- even without them taking a "cut", does not ever come close to fully paying ownership expenses for any of us owners). They would like to restrain trade by limiting "property management" activities to their own profession, even though their real estate training does nothing to qualify them to do the tasks required: cleaning, maintenance, and responding to guest situations such as appliance malfunctions or lockouts, that comprise the duties performed with diligence, accountability and enthusiasm, by on-island contacts employed by off-island vacation rental owners. In fact, the realtors have to hire others to do the cleaning, maintenance, and appliance repairs, and send a cleaner over to unlock condos from which guests have locked themselves out. Since the owners who rent out their own condos handle their own rental agreements and financial transactions with guests directly, and do the tax reporting themselves, there is no need for on-island contact individuals employed as caretakers to serve in any fiduciary capacity, or to negotiate any agreements between guests and owners.

Over the years, we have inquired of, and/or interviewed, a number of real estate companies and individuals to take care of our condo. We have actually hired both licensed real estate professionals (three different ones) and independent individuals (three different ones), and the difference is really night and day. It is more work for us to hire individuals rather than realty companies, as we have to advertise and rent out our own place, and both we and our accountant have to do more paperwork. However hiring individuals rather than realty companies has been worth the extra effort! Without exception, the three independent individuals who worked for us performed with a high degree of integrity, caring, and responsibility, and the three real estate agents/realtors absolutely did not. Here is a synopsis of our experience with the licensed real estate professionals and individual persons we have engaged:

A: Licensed Real Estate Professionals: Real Estate professionals 1 and 2 engaged in renting out our condo, but at best only got a maximum of about ten weeks a year rented out for us-- usually much less. Real Estate professional 3 was licensed, but did not participate in renting out our condo on our behalf.

1. Real Estate Professional 1: This lady started out by telling us we were "lucky" that she deigned to take care of our condo since she was so busy with selling places, and with

managing her modest list of other condos. She did do one thing right. She personally changed the smoke alarm batteries in each of her managed condos twice a year, without being reminded. On the other hand, she had a very bad attitude, and did not return calls from guests or from us in a timely manner because she was eternally "too busy" showing properties, which was how she told us she made her "real money". This did not make for the best guest experience, and we felt we could not rely on her to "be there" for our guests. She hired non-English-speaking cleaners and paid them little. We could not communicate with them adequately when we were on the island, and neither could our guests. These cleaners took our nice, personally owned linens away and replaced them with cheap white institutional sheets, without our permission, and without reporting what happened to our linens that they made "disappear" on a regular basis. However, when we would visit, we would see that they had used chlorine bleach on our colored linens and beach towels, ruining them, and would note that a number of small appliances and most of the dvds we supplied for our guests' entertainment always "went missing" between our visits. This real estate professional refused to inventory our condo items to protect us from theft (probably because they realized it was their cleaners doing the stealing), and refused provide touch as the high end amenities, toiletries, etc., that we wanted to ship to her to put in the condo for our guests. She would not provide welcome baskets or gifts for special occasions, because those things were "too much work".

2. Real Estate Professional 2: Was frequently ill, and had her handyman husband, not a licensed real estate professional, "fill in" for her. This couple managed to double-book our condo on occasion (even though they rarely got our condo booked at all), forcing guests to split their stays between our place and a second condo under their aegis. (The only times we have ever had our condo double booked, it was because of real estate professional mistakes--even a modest number of properties seemed to be too many for them to keep track of). The handyman husband started billing us for about \$800 per month, with many more things supposedly "breaking" at the condo than ever before or since, and only after a number of months did we realize that his charges were specious. (For instance, he claimed he had to change the belt on our vacuum cleaner nearly every time it was used by their cleaners, when it never broke during all of the times we were on island and used it ourselves. The list goes on; he was doing the same thing to other owners; we had to find another property manager.)

3. Real Estate Professional 3: This woman was difficult for us and for guests to reach, as she had several other jobs due to the poor real estate economic situation. She failed to warn our guests about a threatened tsunami (luckily, we called them ourselves to make sure they knew), and failed to put out the extra flashlights etc..we had stored in the condo for them, knowing it was coming. (When I called her to see why she hadn't done anything for our guests, she told me she was busy taking care of her own family and making sure her own vehicles were safely "upcountry". We had to call our guests personally from the mainland to tell them where to find everything (we always give our guests printed information describing those things, but given the situation, they were anxious and needed attention and information, which we provided long distance from Washington). We also told them where to find the evacuation route information, should it be needed. Our licensed real estate professional property manager also failed for over 24 hours to respond to those same guests' problem with a leak in the washing machine, and then failed to evaluate the problem, but instead blindly called a repair person, who did not show up for days, and upon arrival pronounced the machine working well, just overloaded by guests. She reported to us that she personally "cleaned" our condo, or said she cleaned it, charging us a very high fee to do so. However, for the last part

of the one year we employed her, we had several guest complaints that the condo was dirty in a variety of ways. We would inform her that the guests complained, but she would not go over to re-clean our place for them as she should have done, and did not send anyone else to do it either. We had two different friends check our condo for us on guest arrival days after she had supposedly cleaned, to get trusted opinions. Both friends found that, although the bathroom linens were fresh and the beds had been changed and had clean sheets, the condo had not been cleaned adequately or practically at all after the departing guests (the bathrooms were filthy, the fridge had not been wiped out, and the floors were dirty). Both friends then cleaned the condo themselves! After these reports, I flew over to the island to do a deep clean, and found that many items were missing from the condo, and I had to replace them. I then had to hire a new contact person on short notice, which-- by the way-- is not at all easy.

B. Individual "on island contacts" have, in contrast, diligently cleaned our condo and kept it in good repair, and responded immediately to any and all guest issues. Things rarely seemed to break and just about nothing, even dvds, have gone missing under the supervision of any of them. None of these people ever had or now have any role at all in renting out our condo, and they have no fiduciary duties (we ourselves take care of renting out the condo, scheduling guest stays, collecting fees, reporting the income, and paying the taxes).

1. Our first individual "on island contact/cleaner" was recommended to us as the friend of an off-island friend. This wonderful woman's work at our condo was her chief source of income, as her other part time job paid little. She not only personally cleaned the condo, she also called in and scheduled trusted handymen when needed, and personally let them into the condo and supervised their work directly. (None of our licensed real estate professional property managers or any designee of theirs ever did these things.) She stocked the condo with the high end amenities that we prefer to provide for our guests, and suggested providing welcome baskets for them as well, which we thought was a great idea—we had always wanted to offer them, but the realtors would not do it. She would shop for guest basket items from local merchants and pass on to us the costs for her purchases and her "shopping trip" transportation. She would also provide, at our request, special touches, like flowers or anniversary banners, for special occasions, making our guests feel truly welcome and cared for. She always responded immediately to our guests' calls to her, and always went to the condo personally to check on any appliance with which they were having difficulty, etc.. We came to absolutely cherish this woman, and were heartbroken when she had to move to the mainland due to family issues.

2. After Individual 1 had to leave the island, she very responsibly passed our condo management on to a lovely couple who did the job until they retired. They were utterly reliable, interested in our guests, and did the exact same things for us as Individual 1.

3. Individual 3 is the fantastic cleaner/manager, recommended by an on-island friend, who now cares for our condo. She keeps things meticulously clean, responds immediately to any guest problems, and her husband immediately and effectively fixes or replaces any appliance or condo feature that is causing a problem. She also shops for guest welcome baskets, and furnishes the condo with things we have shipped to her address. (Another thing the individual contacts do much better than the licensed realtors is to accept the items shipped to Maui by owners for their vacation homes, and get them installed in short order. The licensed realtors

never did too well at this, with the last one "losing" many of the things we shipped over.)

Quite honestly, we have felt scammed by all three of the real estate professionals we hired, and I suppose we could actually have pressed criminal charges in a couple of cases. However, it seems better for all concerned if we just hire not realtors, but very caring and diligent individuals who are fully responsible for our condo, and are fully accountable to us. With the non-real estate professional property manager/contact people, no items go missing from the condo, no cleaners use chlorine bleach on colored linens, and-- most importantly, our guests have a great experience on Maui. Our guests arrive at our condo to find it beautifully clean and welcoming (and sometimes even decorated for their celebration). Our guests know they are in good hands when their calls are answered right away, and their concerns addressed with a helpful attitude. In 100% of cases, this has happened with our "individual on-island contacts" and has simply NOT happened with the real estate professional property managers which this law seeks to impose on off-island owners and their guests.

Hopefully you can see from our experiences that it is better for everyone (except for real estate companies), if individual on-island contact persons, rather than real estate professionals, take care of Hawaiian vacation rentals for off-island owners who don't need or want the services of real estate companies to book reservations. Surely it is the best thing for visitors to Maui who want to stay in condos or homes, and not hotels, to have caring, responsible and responsive people to call on the island! And it is best for property owners, because these individual contact persons are reliable and personally accountable, and we as off-island property owners want to ensure that our guests will be VERY well cared for on the island. Allowing non-real estate professionals to do this job is also good for Hawaii's economy and its citizens, because taking care of a vacation rental is a job any reasonably intelligent, diligent, caring, organized, able bodied person can do. Maui vacation rental owners create jobs for Maui citizens, and the same surely happens on the other islands! Our individual contact person/cleaner/property managers are themselves Hawaiian tax payers who already live in the islands and want and need jobs. (In contrast, some real estate company property managers hire people from foreign lands to do their cleaning, so they can pocket the difference between the low wages they pay those cleaners and the high cleaning fees they charge the owners). Finally, when the individual contact person is the same person who does the cleaning and arranges the maintenance, that contact person really KNOWS the vacation rental he or she is caring for. They know how to help, and do help, much more quickly, effectively, efficiently, and with a much more caring attitude than a licensed real estate professional who rarely if ever personally sets foot in the vacation rental, and really (sadly) does not care about it, about the owners, or about the guests.

I would also question whether a contact person/cleaner/property manager truly needs to be limited to managing one vacation rental for off-island owners. Ours have only managed ours, and I think that trying to juggle too many would in fact be problematic. However, I would not imagine that there would be a problem with an individual managing up to three or four vacation rentals (and if they could do that, they could actually support themselves, even in Hawaii, doing so!). In my experience, our "individual contact people/cleaner/ property managers" all have lots of friends on the island who do similar jobs. They substitute for one another during vacations, call one another for help if guests have made an unusual mess and they need help to get the place ready for guests arriving the same day, etc.. So I would imagine they could call in reinforcements from their networks if faced with needing to help

guests at more than one vacation rental on a given day. These individual contact persons/cleaners/managers are more than qualified to care for vacation rentals. They do nothing (other than driving places) that can, should or does require a license. They don't have any fiduciary responsibilities, don't touch guests' money or belongings, and it is possible to find amongst their numbers many well qualified, diligent, honest people who want, need, and are happy to do the work of caring for someone's vacation rental. There is no valid reason I can see to restrict the pool of candidates for vacation rental owners to hire as contact persons to "licensed real estate professionals". In our experience, the job they do is worse, not better, than that done by those without real estate licenses.

Additionally, I would point out that many condo associations are incapable of reporting on owners' rental activities. Although our particular condo complex has always been designated as a "licensed vacation rental" site, our condo association has no involvement whatsoever in the rental activities of any owner. They don't handle any transactions, don't check guests in, don't check them out, don't keep any kind of calendars, don't have any idea who is staying in which condo when, and don't have the condo bylaws to support any such activities. So reporting on the rental activities of individual owners by a condo association such as ours would be impossible. It is also unnecessary, since the individual owners do their own reporting. I know of NO owner who is dishonest in this regard. If the state of Hawaii, or anyone else, has actual facts and figures regarding the alleged "unreported" rentals on which they are supposedly losing taxes, I would love to see some independently verified data documenting that it actually occurs, and if so, how prevalent it is. It would be easy enough to do a study comparing the IRS filings of all Hawaii vacation rental owners with their Hawaii tax filings. I strongly suspect that unreported rentals by off-island owners do not occur much, if at all.

Finally, I think that SB 1031 will violate federal antitrust laws.

From the FTC website: <http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>

The Antitrust Laws

Congress passed the first antitrust law, the Sherman Act, in 1890 as a "comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade." In 1914, Congress passed two additional antitrust laws: the Federal Trade Commission Act, which created the FTC, and the Clayton Act. With some revisions, these are the three core federal antitrust laws still in effect today.

The antitrust laws proscribe unlawful mergers and business practices in general terms, leaving courts to decide which ones are illegal based on the facts of each case. Courts have applied the antitrust laws to changing markets, from a time of horse and buggies to the present digital age. Yet for over 100 years, the antitrust laws have had the same basic objective: to protect the process of competition for the benefit of consumers, making sure there are strong incentives for businesses to operate efficiently, keep prices down, and keep quality up.

Here is an overview of the three core federal antitrust laws.

The Sherman Act outlaws "every contract, combination, or conspiracy in restraint of trade," and any "monopolization, attempted monopolization, or conspiracy or combination to monopolize." Long ago, the Supreme Court decided that the Sherman Act does not prohibit *every* restraint of trade, only those that are *unreasonable*. For instance, in some sense, an agreement between two individuals to form a partnership restrains trade, but may not do so unreasonably, and thus may be lawful under the antitrust laws. On the other hand, certain acts are considered so harmful to competition that they are almost always illegal. These include plain arrangements among competing individuals or businesses to fix prices, divide markets, or rig bids. These acts are "*per se*" violations of the Sherman Act; in other words, no defense or justification is allowed.

I am also very concerned by the use of the word "realtor" in this bill. According to

www.realtor.org/.../definition-of-realtor

"The term **REALTOR®** has one, and only one, **meaning: REALTOR®** is a federally registered collective membership mark which identifies a real estate professional who is member of the NATIONAL ASSOCIATION OF REALTORS® and subscribes to its strict Code of Ethics."

Use of the term "realtor" in this bill would promote further monopolization of the Hawaiian vacation rental business by members of one association! This would be even less legal under federal law than limiting property management to "real estate licensees", which would already restrict vacation rental activities by owner and so restrain trade.

I urge you to oppose SB1031, and indeed oppose any bill that seeks to force the unwanted (and, in my experience, substandard and potentially ruinous) "services" of licensed real estate personnel on off-island vacation rental owners.

I think that if a measure such as SB1031 were to be passed, even though it would likely be overturned in short order because it violates federal law, a number of owners, including ourselves, might prefer to stop renting out our vacation homes altogether (and simply count them as second homes, which would lower real estate taxes anyway) rather than being forced to employ real estate professionals we have already found to be unsatisfactory. If that were to happen, all the tax revenues generated for Hawaii by our rentals, as well as the excess property taxation attached to vacation rental assessments, would be lost to the state.

Mahalo to you for your consideration.

Sincerely,

M Michele Murburg MD

Kanai a Nalu,

Maalaea, Maui

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: marilyn7b@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 5:19:32 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Brown	Individual	Oppose	No

Comments: I Opposes this bill · I support the requirement to have an contact who is resident on island · I oppose the requirement that the on-island agent be a real estate licensee The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. These bills fail to regulate the rate at which realtors can be compensated for this role. · I propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Respectfully,

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To: [CPN Testimony](#)
Cc: marshavaughn3@att.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:58:34 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Marsha Vaughn	Individual	Oppose	No

Comments: Testimony in Opposition of SB1031 I am submitting the same testimony that I submit for HB803, since this seems to be the same bill. I oppose this for the exact same reasons. After a lengthy involvement in the legislative process in 2012, I am very disheartened to see that the exact same issues are before us once again. Thank you for allowing me to provide testimony to OPPOSE this bill and any others that it morphs into. This bill once again requiring off-island single condo owners, such as myself to hire a real estate broker or other licensed real estate salesperson to manage my business. I have been successfully managing it myself since 2010, paying all taxes and adhering to all laws. My vacation rental tenants have consistently rated my condo with 5 stars on the VRBO website and often in their comments cited the personal and helpful hands on service I have provided them. I have an on-island local contact, who is a very responsible woman running her own condo cleaning business. She may or may not be the local contact for other condo owners. I don't believe that is any of my business, as long as she provides the necessary emergency services for my guests. To date she has been called very seldom as the guests call me first and I contact her if needed. Being forced by the legislature to hire someone for this purpose would in effect cause me to go out of business, as the additional fees would substantially cause my very limited income to decrease to the point of it being unfeasible to continue. As we are doing a great job of providing guests with a very positive experience, spreading Aloha and keeping costs down, it baffles me what the possible upside of this requirement could be, except to provide business to real estate agents, who if I recall in 2012, did not want this extra task. It makes no sense whatsoever, to have an on-island local contact have to be an employee and only work for one vacation rental owner. As I said, my local contact, has very little, if anything to do related to emergent needs. As far as posting my local contact's name and information on the internet, I'm also baffled by what consumer protection this would offer? I am the one responsible for the ownership, the maintenance, care and appropriate use of my condo, per my HOA rules. Currently, as per 2012 legislature, every guest receives the local contact's name and phone number and as I said, they have almost never needed to use it. I sincerely hope, for the sake of continuing to encourage small business to flourish in Hawaii, which according to an economic report I read recently is the only way to encourage economic growth in HI and to prevent those of us who love the islands

from being forced out, that you will reject this bill. Mahalo Marsha Vaughn

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Cc: dmgcondo@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 4:02:24 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Gross	Individual	Oppose	No

Comments: I strongly oppose the requirement to have a licensed realtor as the on-island contact or an employee who only works for one owner. I have an on-island contact and 1099 him every year for being available to assist my guests should any issue come up. A licensed realtor would NOT assist in this way and would only cost me money and I would still need to find someone to help with the day in/day out issues. Thank you for your consideration.

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To: [CPN Testimony](#)
Cc: mary.ransbury@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 5:09:52 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Ransbury	Individual	Oppose	No

Comments: I just ask that you please Oppose SB 1031 - changing the definition of on island contact to and on island agent is for only the benefit of Aston, Aqua, Castle, and a few others who almost cost me to loose my properties by taking over 70% of my income. I had no control over the hundred of thousands of dollars of my investments.

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To: [CPN Testimony](#)
Cc: mhubner@halehubner.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 5:34:47 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Hubner	Individual	Oppose	No

Comments: To the honorable Members of these Committees, I am writing in opposition of SB1031. As the owner of a transient vacation rental (TVR) in the Puna District on the island of Hawai'i, I fully support the requirement to have an on-island contact who is a resident. Having such a contact gives me and my guests peace of mind that there is redundancy should contact be necessary during a stay. In fact, I have back up contacts should I or the primary contact not be available. I established this protocol long before it was made a requirement by Act 326, and it has served me well, especially when my district was directly hit by hurricane Iselle. I oppose this Bill's requirement that an on-island contact be re-labeled as an on-island "agent" with the requirement that said agent be either a licensed real estate professional or a caretaker/custodian that be designated an employee with the requirement that they work solely for one owner. These new requirements establish a situation where most TVR owners will be forced to hire a property manager (PM) to operate their rentals. I do not believe this was the intent of Act 326, and I believe these proposed amendments detract from its goals of consumer safety and conformity of TVRs to tax laws and regulations. In fact, I believe the outcome of this Bill would be a de facto monopoly for property managers in the State. From the testimony of PMs for HB825, I have come to realize that individual property owners are increasing competition for property managers. Some argue that we have deflated nightly rates and taken work away from local workers, which has had a negative impact on the economy. I haven't been presented data to validate these claims; however, competition is an integral part of the free market system we enjoy as part of the United States of America, and I do not believe the intent of this Bill is to regulate markets. As far as taking away local jobs, my one house provides at least more than half of my housekeeper's income. We employ 3 other local contractors for other work/maintenance throughout the year. Not a single one of these wonderful hardworking people previously worked for a PM, and they have only expressed gratitude for the additional work opportunities in the area. I am member of Rental by Owner Awareness Association (RBOAA), and I support their stance regarding this Bill, especially when it comes to clearly defining the on-island contact in a manner that is not detrimental to any group. Further, I would like to express that as a TVR owner in the State of Hawaii, I take my responsibility to follow the applicable laws and remittance of GE and TA taxes seriously. I care about the community where I have my home (and hope to relocate

to soon). After Iselle, we came out to help out friends and neighbors in lower Puna. The same folks are now facing the threat of lava consuming their homes or cutting off access to their community. 2014 has been a struggle for the small businesses and tourism of Puna. Please do not increase the burdens on TVR owners of this district by passing this Bill in its current form. I thank you for your consideration and the opportunity to provide testimony. Mahalo. Matt Hubner

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3184 Brookridge Drive
North Vancouver, B.C.
February 11, 2015

Dear Representatives of the State of Hawaii,

As an owner of a transient rental in Hawaii, I am respectfully writing in strong opposition to Bill SB1031. While I fully support the requirement of an island contact for transient guests, I oppose the requirement that the on-island agent must be a real estate licensee. I also fully support the governments' expectation that operators of transient accommodations be in total compliance with applicable state and county laws, but feel that the requirement that owners use a realtor as a property manager to ensure this compliance, is detrimental to both owners and the state of Hawaii.

Ironically Bill SB1031 may actual be harmful not only to owners and the state of Hawaii, but also to realtors, as real-estate in Hawaii potentially become less financially desirable for investors. Investors may choose to invest in other areas than Hawaii, that allow them options on how they manage their privately owned investment property without property management regulations that severely impacts their investment return. I'm curious why Hawaiian legislators feel that investors in the state of Hawaii are less compliant with applicable state and county laws than investors in other states.

Most realtor/property managers in Maui currently charge owners 25 -55% of gross revenue income and also have contracts that require owners to authorize substantial incidental charges and services that the property manager deems necessary without owners consent. These contracts in essence require investors to have a huge leap of faith, perhaps ignorance, to allow an agency to have free access to spending his/her money, making it potentially financially unfeasible to invest in Hawaii. These contracts also onerously restrict owners use and enjoyment of their privately owned property. Those individuals, who have already invested in Hawaii, like us, may be forced to pull out of Hawaii because these high management fees and contractual obligations that could potentially affect individuals' ability to pay mortgages or to gain positive investment returns. The speculation of Bill SB1031 has already caused friends of ours to reconsider investing in Hawaii. This deterrent to investing in Hawaiian property potentially may cause the real estate market in Hawaii to suffer as many other investors move their money to places that do not force investors to use realtors as property managers.

Realtors have no more special training or skills relevant to taking care of guests and properties than other on-island management property caretakers and if anything, there may be a conflict of interest for realtors to be selling real estate while also promoting their management services; we observed this conflict of interest when purchasing our property. When our realtor realized that we had decided against using him as a property manager, from that point forward was no longer as responsive to any of our purchasing questions. Bill SB1031 may scare off investors who also want more control over their investment such as giving individual care and attention to their guests. Investors may want to ensure that the accommodation offered to their guests is the one that their guests ultimately get and not switch for another unit upon arrival.

A realtor's licence does not ensure that the property management service is superior or that the higher integrity is maintained. From a consumer protection perspective, Bill SB1031 would stifle competition by providing realtors a near monopoly on providing these services. The higher fees imposed by realtors will potentially be passed onto consumers with no added benefit. With subsequently substantially higher nightly rates for properties controlled by realtor property managers, visitors may find Hawaii too expensive. This increase will not only impact the transient accommodation industry but all of Hawaii's tourist industry and its offshoots!

For the economy of Hawaii, it would also be regrettable to take away good paying jobs from those hardworking dedicated, trustworthy and service-oriented individuals who are supporting families in the local communities - just because they are not realtors. An on-island agent does not need to be licensed or regulated to take care of property and guests. This bill will affect many Hawaiians, essentially putting many individuals out of business and unable to provide for their families.

If felt deemed necessary, perhaps a background / criminal record check could ensure that those Hawaiian residents who are property caretakers are equally as responsible for caring for properties and guests as are realtors. If the legislature also deems that there are individual operators who are not in compliance with applicable state and county laws, perhaps it would be more beneficial to the state of Hawaii and its citizens to impose significant fines on those individuals who do not comply, rather than force compliant investors to use realtors as property managers and potentially devastate the Hawaii real estate market and tourist industry, through Bill SB1031's requirement that the on-island agent must be a real estate licensee.

Respectfully,

Maureen Parker

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: akamumra@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 2:11:23 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Meredith Johnson	Individual	Oppose	No

Comments: I share and am of the opinion of the following: · I support the requirement to have an contact who is resident on island · I oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. I OPPOSE SB1031.
Respectfully submitted, Meredith Johnson

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Cc: MMCGARRY@REMAX.NET
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 9:01:01 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
MICHELLE MCGARRY	Individual	Oppose	No

Comments: I do not need an agent to manage my property. This takes away my property rights as an owner to self manage. I do a good job and have many repeat vacation renters. With technology I am always available to my renters for any concerns while they are staying in my condo. This bill discriminates against my rights.

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From: [Mike & Jeanette Whalen](#)
To: [CPN Testimony](#)
Subject: OPPOSING SB 1031
Date: Monday, February 16, 2015 2:50:09 PM

We have owned, self-managed, and paid taxes on our condo at the Valley Isle Resort on Maui for almost 30 years without needing an "agent" to manage our affairs. We do not want or need one now. We do have an on-island representative, as required, but we do not need a "professional" agent.

We strongly OPPOSE SB 1031

Mahalo

Mike & Jeanette Whalen
Valley Isle Resort #108
Maui
www.ourmauicondo.com

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: blancaflor@cox.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 3:12:14 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Millard Blancaflor	Individual	Oppose	No

Comments: PLEASE, PLEASE, do not approve this measure. We are retired and on a fixed income. We use this property to supplement our income from savings. If we add more costs to keep it, it will just break us and we will have to sell. We LOVE Hawaii and so does our children and grandchildren. We do not have much time to spend in your beautiful island, so we hope that by striking this bill down, you will allow our heirs to also enjoy your beautiful island for years to come. Mahalo Millard Blancaflor

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: milomcgarry@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 9:58:37 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Milo McGarry	Individual	Oppose	No

Comments: We manage our vacation rental from off island. We care about our customers and give great service. If there's a problem we have an on island contact that is familiar with our property that is available on short notice. This legislation is unfair and punitive and is a nothing more than a cash generator for the management industry.

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Neal Halstead
C312, 2531 S. Kihei Road
Kihei, HI
96753
nealhalstead@yahoo.ca

Dear Members of the House Tourism Committee:

I **OPPOSE** SB 1031, but propose **amendments** which, if adopted, would gain my support and the support of many others.

To legislate real estate licensees into a role between the tenant and the property owner would put Act 326 into conflict with both the Landlord-Tenant Code and the Real Estate Broker and Salesperson Code.

- The Real Estate and Salesperson Code (467-2) permits an owner to rent, lease and manage their own property.
- The Landlord Tenant Code (521-43f) requires an agent residing on the same island as the property, but does not require the agent to be a real estate licensee.
- Nowhere in either statute does the term “on-island agent” exist (nor does it need to exist).
- The role of “local contact” was created in 2012 for the purposes of Act 326.

I **support the amendment** being put forward by **RBOAA** to clearly align Act 326 with both HRS 467 and HRS 521.

All owners of property who wish to offer transient accommodations must either: 1. Be an owner-operator who self manages, rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or 3. Engage the services of a real estate licensee.

The definition of “on-island agent” can then be logically deleted.

Mahalo for your time and consideration

Neal Halstead

attachment

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

1 SECTION 1. Act 326, Session Laws of Hawaii 2012, is

2 Amended as follows:

3 1. By amending section 1 to read:

4 “SECTION 1. The legislature finds that although many
5 operators of transient accommodations are in compliance with
6 applicable state and county laws, there are sizeable number of
7 operators who are not. Failure to comply denies the State and
8 counties of the transient accommodations taxes and general
9 excise taxes they are due.

10 The legislature wishes to clarify that all owners of property who wish to offer
11 transient accommodations must either: 1. Be an owner-operator who self manages,
12 rents, leases and designates a local contact; or 2. Employ a custodian / caretaker; or
13 3. Engage the services of a real estate licensee.

14 The legislature further finds that section 521-43(f),
15 Hawaii Revised Statutes, as part of the landlord-tenant code,
16 requires a landlord who lives out of the State or on a
17 different island to designate an agent who resides on the same
18 island where the rental unit is located to act in the landlord’s
19 behalf. **The sole qualification of the agent is residency on the same island.**

20 **Section 467-2, Hawaii Revised statutes, clearly permits an**
21 **Owner to rent, lease, and manage their own property.**

22 Section 521-7, Hawaii Revised Statutes, also clearly states

1 that the only exemption from the landlord-tenant code for
2 transient rentals is transient occupancy on a day-to-day basis
3 in a hotel or motel. Since all other transient accommodations
4 are subject to the requirements of the landlord-tenant code,
5 operators of transient accommodation who live out of
6 the State or on a different island are already required by law
7 to designate an ~~[on-island]~~ agent residing on the same island to act on their behalf.
8 This Act is intended to clarify that this requirement applies to all
9 operators of transient accommodations who live out of
10 the state or on a different island.

11 The legislature also finds that the landlord-tenant code
12 focuses on consumer protection. Requiring operators who live on
13 a different island from their transient accommodation property
14 or out of state to designate a local contact is an important
15 aspect of consumer protection. A contact person located on the
16 same island as the transient accommodation is essential in the
17 case of an emergency or natural disaster. A~~n~~ ~~[on-island]~~ **local contact**
18 is also vital if any question, concerns, or property issues
19 arise regarding the transient accommodation.

20 The legislature also finds that requiring community,
21 condominium, and other similar associations to provide relevant
22 information to the department of taxation on all operators who

1 may be leasing their property as transient accommodation will
2 help ensure compliance with appropriate state and county tax
3 laws. Requiring the counties to provide the department of
4 taxation with relevant information about operators of transient
5 accommodations will permit additional enforcement of relevant
6 state and county tax laws.

7 Accordingly, the purpose of this Act is to foster consumer
8 protection in the State's transient accommodations market and
9 ensure greater compliance with applicable state and county laws
10 by operators of transient accommodations in the State."

11 By amending section 2 to read:

12 "Section 2. Chapter 237D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "S237D- **Local contact ~~[On-island agent]~~; relevant**
16 **information; advertisements; transient accommodations.** (a) Any
17 operator of a transient accommodation, not resident on the same island, shall
18 designate a **local contact ~~[an on-island agent]~~** residing on the same island where
19 the transient accommodation is located.

20 (b) The operator shall furnish the name, address, and
21 contact information of the **local contact ~~[on-island agent]~~** to

1 any association of homeowners, community association,
2 condominium association, cooperative, or any other
3 nongovernmental entity with covenants, bylaws, and
4 administrative provisions with which the operator's compliance
5 is required for the property where the transient accommodation
6 is located. The operator shall notify and provide updated
7 information to that association or nongovernmental entity within
8 sixty calendar days of any change in the name, address, and
9 contact information of the **local contact** ~~[on-island agent]~~.

10 Any person or entity who wilfully fails to supply
11 information required under this subsection shall be subject to
12 the penalties under section 231-35; provided that a person or
13 entity shall not be subject to any term of imprisonment or
14 probation under section 231-35.

15 (c) Any nongovernmental entity with covenants, bylaws, and
16 administrative provisions which is formed pursuant to chapter
17 514A, 5143, or 421J, shall provide the department with all
18 relevant information provided to them by its members,
19 maintained in its records, related to all operators who may be
20 leasing their property as transient accommodations by December
21 31 of each year, or within sixty calendar days of any change in

1 the relevant information, operation, or ownership of the
2 transient accommodation. Any person or entity who willfully
3 fails to supply information required under this subsection shall
4 ~~[be subject to the penalties under section 231-35; provided that~~
5 ~~a person or entity shall not be subject to any term of~~
6 ~~imprisonment or probation under section 231-35.]~~ pay a civil
7 penalty equal to \$75 multiplied by the number of members
8 comprising the entity.

9 (d) Each county shall provide the department with
10 information necessary to enforce this section. Notwithstanding
11 any provision of title 14 to the contrary, the department shall
12 provide the counties with information necessary for the
13 enforcement of county real property tax laws.

14 (e) The name and phone number of the **local contact** ~~[en-~~
15 ~~island agent]~~ **island agent]** for each transient accommodation shall be included
16 in any transient accommodation contract or written rental
17 agreement and shall be prominently posted in the transient
18 accommodation. The **local contact** ~~[en-island agent]~~ shall reside
19 on the same island as the transient accommodation, and shall
20 meet all other requirements under subsection (a) ~~[and chapter~~
21 ~~467]~~. Any person or entity who wilfully fails to supply

information required under this subsection, ~~[or operator who does
not secure a local contact [an on-island agent] meeting the requirements of
this~~

~~section]~~, shall be subject to the penalties under section 231-35;
provided that a person or entity shall not be subject to any
term of imprisonment or probation under section 231-35.

(f) The registration identification number issued pursuant
to section 237D-4 shall be provided on a website or by online
link and displayed in all advertisements and solicitations on
websites regarding transient accommodations for which the
registration number is issued.

(g) The payment of any penalty assessed under this section
shall be in addition to the requirements under section 237D-9.

h) For the purposes of this section:

“Real Estate licensee” means ~~[an individual or
company]:~~

A real estate broker, real estate salesperson under
the direction of a real estate broker, condominium
hotel operator, or real estate brokerage that is
licensed or registered under chapter 467 and
contracted by the operator of the transient

1 accommodation to provide services required by
2 section; ~~[or]~~

3 A custodian or caretaker, as defined in section 467-1,
4 ~~[who]~~ is an individual employed by the operator of the
5 transient accommodation to provide services required
6 by this section.

7 **Nothing in this section shall be deemed to create an employer**
8 **employee relationship between an operator and its local**

9 **contact.** ~~[If the person performing the role of an operator's on-island~~
10 ~~agent is not licensed or registered under chapter 467,~~

11 ~~the person shall be considered to be acting as a custodian or~~

12 ~~caretaker, as defined in section 467-1. The unlicensed person~~

13 ~~shall be an employee of the operator and may act as an on-island~~

14 ~~agent for only one operator].~~ **Nothing in this section shall be deemed to disallow**
15 **any provision of 467-2.**

16 **"Local Contact" means:**

17 **the person or entity residing on the same island where the**

18 **transient accommodation is located; the local contact is**

19 **engaged by an owner who is managing, leasing, renting his/her**

20 **own transient accommodation property.**

21 "Relevant information" means the operator's name, address,
22 contact information, registration identification number issued
23 pursuant to section 237D-4, and website address if advertising
24 or soliciting the transient accommodation on the Internet."

25 1. By amending section 4 to read:

1 “Section 4. This Act shall take effect on July 1, 2012 [~~;~~
2 ~~provided that this Act shall be repealed on December 31, 2015].~~”

3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that we
5 began before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2015.

February 12, 2015

Nina Nychyporuk and Richard Waugh
2780 Cultus Court
Coquitlam, British Columbia
Canada V3C 5A8

Members of the Senate Committee on Tourism and International Affairs
Members of the Senate Committee on Commerce and Consumer Protection

Re: OPPOSE Senate Bill 1031

Honourable Committee Members,

Thank you for the opportunity to respond to Senate Bill 1031 (SB1031). Our names are Richard Waugh and Nina Nychyporuk. We have collected and remitted over \$45,000 in TAT and GET taxes during the time we have owned and operated a vacation rental property on the Big Island.

We **oppose** SB1031 because it intentionally does not require resident owners to employ a property manager/on-island agent in Hawaii to be responsible for the management of their unit(s) and thereby, amounts to unconstitutional discrimination against property owners who are non-resident in Hawaii. SB1031 also provides property managers and on-island agents with a significant and unfair competitive advantage in the vacation rental market, and adds an extraordinary expense with no value-added to owner-operators of transient accommodation rental properties who contribute significant economic benefits to Hawaii.

SB1031 purports to foster consumer protection in Hawaii's transient vacation rental market, particularly in the case of emergencies and natural disasters, by forcing non-resident owners to employ real estate brokers and salespersons licensed under chapter 467. However, the true intent of SB1031 is to transfer wealth from non-resident owners of transient accommodations to resident property managers and on-island agents by forcing non-resident owners to employ a real estate broker or salesperson licensed under chapter 467 in the rental process on their behalf. In so doing, SB1031 violates the most basic and fundamental right to own and dispose of privately-held property, including the right to use, sell, rent as property owners see fit; and mortgage, transfer, exchange or destroy, or to exclude others from doing these things to their property. SB1031 is discriminatory and represents a violation of non-resident owner's fundamental property rights to exclude others from the process of renting their property.

SB1031 also violates United States antitrust law. The legislation imposes a restraint of trade on independent owner-operators of transient accommodations by granting property managers, real estate brokers and salespersons the exclusive right to market, rent and collect taxes on vacation rental properties in Hawaii. As a result, SB1031 harms non-resident owners by restricting their freedom of choice in determining how they rent their property.

SB1031 and other recent similar Bills progressing through the current session of the state

legislature may also be in violation of the North American Free Trade Agreement (NAFTA), insofar as non-resident owners like us, who are Canadian investors in Hawaii, will be treated less favourably than the most favourable treatment accorded, in like circumstances, by the state to investors resident in Hawaii. More specifically, NAFTA Article 1102 states:

National Treatment

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:
 - (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
 - (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

We support the requirement to have a contact that is resident on island. However, we oppose the requirement that the on-island agent be a real estate licensee for the following reasons:

- The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated;
- Realtors and brokers possess no special skills that are relevant to dealing with lockouts, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities;
- Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly;
- SB1031 fails to regulate the rate at which realtors can be compensated for this role; and
- What studies or evidence have been presented to the Committee to support the assertion that only real estate agents or salespersons licensed under chapter 467 are better able to respond to guests during emergencies, natural disasters or any other issues?

Not all real estate agents or salespersons have staff on call 24 hours a day. However, independent owner-operators of transient accommodation rentals are on call 24 hours a day. Guests can - and

often do – contact us by email or telephone any time of the day, seven days a week.

SB1031 will allow real estate brokers and salespersons licensed under chapter 467 to profit from the significant investments of non-resident owners. Real estate brokers and salespersons have no vested interest in maintaining the property of non-resident owners. They have made no capital investment and are not exposed to any risk of loss. SB1031 is nothing more than an attempt to transfer wealth from non-resident owners to real estate brokers and salespersons, under the guise of consumer protection, by forcing non-resident owners to employ real estate brokers and salespersons to carry out a function of their business. Moreover, important consumer protection measures already exist within other legislative and regulatory bodies, such as the Department of Commerce and Consumer Affairs.

We propose the language in ACT 236 in respect of “agent”, “on-island agent” and “local contact” be made consistent with the Landlord and Tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

Finally, we encourage all state legislators to consider the following as they debate SB1031:

- Have state legislators considered creating an independent task force, comprised of various stakeholders in the tourism and accommodation industry, including in the vacation rental category, to determine the extent of the problems that have given rise to this Bill?
- Have state legislators considered the motivations of the small cadre of real estate Broker s and licensed agents who lobbied for this Bill?
- With respect to the taxation issue, what empirical evidence has been presented to the House to prove that a *sizeable* number of owners of transient accommodations do not comply with the requirement to collect and submit the transient accommodations tax (TAT) and the general excise tax (GET) on short term rentals?
- What empirical evidence has been presented to the Committees to support the assertion that tax enforcement efforts are hampered when the owner of a transient accommodation lives on a different island or out of state?
- The Department of Taxation confirmed in its own 2007 testimony on Bill HRS 273D-13 that “in general, those that rent transient accommodations are tax compliant.” What new evidence is there from the Department of Taxation that proves otherwise that non-resident owners are not tax compliant?

We kindly ask you not to pass SB1031.

Sincerely,

Nina Nychporuk and Richard Waugh
Non-Resident Owner-Operators and Visitors

From: idivedeep@aol.com
To: [CPN Testimony](#)
Subject: Oppose SB 1031
Date: Monday, February 16, 2015 11:53:08 AM

Aloha. I oppose SB 1031. Please oppose this bill too.

Mahalo
Norb Wolszon

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: diveddeep@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 11:53:20 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Norbert Wolszon	Individual	Oppose	No

Comments: · We support the requirement to have an contact who is resident on island · We oppose the requirement that the on-island agent be a real estate licensee
o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.
o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.
o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.
o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Mahalo for your time, effort and support.

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On King Lau

10700 Alexander Falls Ave

Bakersfield, CA 93312

Regarding SB1031

Aloha Committee,

I oppose SB1031 due to the following.

- Being a small condo owner and paying for an on-island agent would be financially burdensome for me and the vacationer. Having a condo in this beautiful island would be taken away from me. We are at the mercy of an on-island agent who can easily raise the cost of doing business. We would have a hard time competing against the big property management companies. I have three on-island agents currently – my cleaner, handyman, and my Resort Front Desk. Adding a realtor as my on-island agent would add to the cost since I have to pay my cleaner anyway.
- Because of the extra cost, we, as owners, would be forced to sell our condos leaving vacationers little choice in price and customer service. Many vacationers like to rent with individual owners. Individual owners provide higher attention to detail and customer service because it is their own condo. I have many guests who prefer small owners instead of the big property management companies because of customer service as well as pricing flexibility.

Please vote to oppose. My proposal would be to have the Hawaii Tax dept to set up an occupancy calendar for each owner to register his/her condo to. This way the tax auditors can quickly connect the Hawaii Tax occupancy calendar to the owner's own master calendar to help in collecting tax revenue. If the other goal is to protect consumers, this legislation would not help – I strongly believe it would be the exact opposite. There is no better customer service than from the direct owner who values his/her guests and condo more than a big property management company.

Thank you and Mahalo,

On King and Kristine Lau

408-806-4583

Kinglau16@yahoo.com

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: pualanipat@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:02:03 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Starkie	Individual	Oppose	No

Comments: I support the requirement to have an contact who is resident on island. I employ local Hawaiians and they have worked for me for over 10 years. · I oppose the requirement that the on-island agent be a real estate licensee. My on-island help do a wonderful job caring for my property. There is no need to have a real estate license to change light bulbs, maintain hot tubs, etc. The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467 Thank you for allowing my testimony to oppose this legislation. Pat Starkie

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: robstewart49@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 9:35:49 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
R Stewart	Individual	Oppose	No

Comments: Please defer SB 1031 and Please make permanent the provisions of Act 326. Three conditions are provided under law for renting TA: 1. Owner operator who manages and rents their own property 2. Custodian/Caretaker 3. Licensed realtor This is provided for in Section 467-2. Additionally in 237D-4 Hawaii law relating to Transient accommodation -certificate of registration. Section 3(b)(quote) If the license fee is paid, the department shall not refuse to issue a registration or revoke or cancel a registration for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237D-14 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.(end quote) The tax department is affirming their obligation to not withhold the privilege and right of an owner to rent their own property when the fee for registering has been paid. What SB1031 proposes is not conforming to the principals of these Hawaii and US laws. Thank you for your consideration of this bill.

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From: [Ralph Schmidt](#)
To: [CPN Testimony](#)
Subject: SB 1031 Oppose
Date: Tuesday, February 17, 2015 8:09:50 AM

Dear Senator Baker,

I am Rev. Ralph Schmidt, owner of a condo on Maui since 2009. During the past six years we have had over 250 guests. During the first year we had a realtor as our on island contact. She charged us \$600, and never had to do a thing. The second year she said \$600 wasn't sufficient for doing nothing. We then got a friend to be our contact. During the time we have owned the condo, our on island contact has never received a phone call from any guest. Our contact is listed on every contract our guests receive, so they know upfront that one is available. However, in this day and age there is little need for people to call an on island contact, when they can call us on our cell phone which is on 24/7.

Even if a call were made, in the rare likelihood that we wouldn't be able to be reached, a realtor has no greater special qualifications to deal with the problems they might encounter than any other individual who would be an on island contact.

Before we bought our condo, we used to make reservations through property managers or realtors. We found them difficult to reach and difficult to deal with. When we began making reservations with owners, it we had a much easier time. Owners have a vested interest in maintaining close contact with their guests and correcting things if there is a problem. If things go bad, they'll get negative reviews on the websites they advertise on. There is no such vested interest on the part of property managers or realtors.

The biggest complaint you would find on any of the reviews on our websites occurred one time when our regular cleaner was out of town and we hired a professional cleaning agency. The complaint was that the guest found an opened bar of soap in the bathroom!

This bill lays an unnecessary burden on property owners who will be held captive to an industry that wants a monopoly of management for owners who are quite capable of managing their own property. The success we have speaks for itself. To be forced to pay realtors or property managers outrageous fees to do nothing is unfair.

I oppose this bill for the aforesaid reasons. Please listen to the thousands of caring property owners who are in much better position to take care of their own property than realtors and property managers who only are looking for increased fees to do little or no work.

Mahalo!

Rev. Ralph G. Schmidt
2807 Cliffwood Lane
Fort Wayne, IN 46825

owner of

Grand Champions #2
155 Wailea Ike Place
Wailea, Maui, Hawaii

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: rpalombi@shaw.ca
Subject: *Submitted testimony for SB1031 on Feb 17, 2015 09:10AM*
Date: Wednesday, February 11, 2015 8:38:16 AM

SB1031

Submitted on: 2/11/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard & Ruth Palombi	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: rick.beck55@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 3:19:53 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Beck	Individual	Oppose	No

Comments: Aloha I am an owner of a transient accommodation rental (vacation rental) in Maui for the last 11 years. We have had no complaints from guests or other owners in our condo complex as I take extra care to make sure the guests are appropriate for the property and they understand the condo rules before they arrive. I have an on-island representative in case of an emergency, of which there have been none, and this has worked extremely well. As president of our home owners association, I hear many bad stories about the two main Realtors that also do vacation rentals. Primary complaints are not screening tenants and renting to party groups that disrupt the peace and cause damage. AS owner I do not want those folks and do my best to make sure I know who is there. I ask that you leave the current laws as-is, they are working fine. Mahalo!

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From: [Richard](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Sunday, February 15, 2015 7:28:06 AM

I oppose the requirement that the on-island contact be a real estate licensee,

- o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.
- o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, laundry or fixture issues, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.
- o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.
- o These bills fail to regulate the rate at which realtors can be compensated for this role.
- * Who has the better ability to represent my property, me or an on Island agent that doesn't build the rapport with the client.

I support the requirement to have a contact who is on island.

I suggest the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

Respectfully,

Richard Brashen
Papakea Owner L402

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: mauiocceanviewcondos@cox.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 10:59:17 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard C. French	Individual	Oppose	No

Comments: We have been capably and legally managing our rental condos for more than 10 years and do not wish to lose control of this freedom to do so.

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From: [Diane](#)
To: [CPN Testimony](#)
Subject: SB1031
Date: Sunday, February 15, 2015 4:13:16 AM

We support the requirement to have an contact who is resident on island

We oppose the requirement that the on-island agent be a real estate licensee

- o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.
- o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.
- o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly.
- o These bills fail to regulate the rate at which realtors can be compensated for this role.

.
We propose the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

Mahalo for your time, effort and support.
Robert and Diane Burns
Owners, Unit K-107
Maui Eldorado

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: bob.m.banks@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 7:35:11 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert M Banks	Individual	Oppose	No

Comments: I respectfully oppose the requirement that the on-island agent be a real estate licensee for the following reasons: o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. Thanks for your time for considering these points. Bob Banks

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Sen. Rosalyn H. Baker
Senate District:6

Dear Senator Baker

We support only the requirement to have an owners contact who is simply a resident of the island. No particular license is required for the required tasks . There are no issues, nor have there been any issues in the past that would require a Real Estate Broker.

Our reasons for this objection is simply that this particular class of residences possess no special education or skills that are relevant or necessary for the management of broken appliances, natural disasters, or lock-outs. These are the reasons for having an island contact.

We vigorously oppose that the on-island representative be a person with a real estate license and the on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated .

There is no economic justification to the state or any other entity for this proposal. We propose the language in ACT 236 in respect of “agent”, “on-island agent” and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467.

This act would cause the state to devise a monopoly for this simple service that requires no formal education or institutionalized special training. This proposed bill would only cause owner an additional expense without any possible reasonable return either to themselves or the State of Hawaii. This is a self serving bill that only adds a financial burden to property owners and an unearned reward to the real estate industry.

Another layer of regulation is simply not necessary, justified by any facts, nor does it solve any problems because there are none.

Any valid reasons for this change in regulations are nonexistent.

Respectfully yours,

Robert Curran
3300 Wailea Alanui, 37B
Wailea, HI 96753

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: rmalibu@charter.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 2:15:03 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Rubin	Individual	Oppose	No

Comments: I support the requirement to have an contact who is resident on island . But I oppose the requirement that the on-island agent be a real estate licensee Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · I propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: bmcdonough@earthlink.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 3:08:36 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Roberta McDonough	Individual	Oppose	No

Comments: Please do everything possible to defeat SB 1031

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From: [Ron Hansen](#)
To: [CPN Testimony](#)
Subject: Opposing SB1031
Date: Monday, February 16, 2015 10:02:08 PM

Dear Roz Baker,

I am in opposition to the terms of SB1031, as it simply brings up issues already covered in prior legislative sessions.

Those proposing this legislation merely seek to be granted exclusive status to prey upon those short-term rental unit operators who are legally, correctly, and successfully managing their rental units by requiring those owners to pay for unneeded services that do not solve any problems. An owner's right to manage his own property is a legal right, so any narrow restriction of this right will surely be attacked by lawsuits to be filed if SB1031 is passed.....ie licensed realtors are not required for selling a property.....neither shall they be required for renting a property.

Do not create another layer of expense and burden that will raise overall costs of ownership and the ultimate cost of visiting Maui.

I support the requirement to have a contact who is resident on island. I oppose the requirement that the on-island agent be a real estate licensee The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters,etc in the management of properties. Any responsible Hawaiian resident can handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic nor legal justification for such a regulation.

Furthermore, These bills fail to regulate the rate at which realtors can be compensated for this role. ...thereby giving Realtors a monopoly license to extract whatever fees they may set.-

Sincerely,
Ronald Hansen

Maalaea Banyans Unit 318, 190 Hauoli St. Wailuku HI

(

Dear Senators:

I am writing to you to voice my opposition to Senate Bill # 1031.

We do understand the dilemma the state is under to control the Transient Accommodation Industry. The on-island contact is fully supported by my company as this will protect the consumer in the case of an emergency or in just day to day issues that can arise.

The reasons for a Licensed Real Estate Broker or Real Estate Salesperson under the direction of a Real Estate Broker to manage still eludes me. As the definition of a Real Estate Broker in Chapter 467-1 states: "any person who, for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or lists, or solicits for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, or manages or offers to manage, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the person of the option and for the purpose or as a means of evading the licensing requirement of this chapter." As by the definition the Real Estate Brokers have a great amount to deal with and it is unclear why there is this fixation about having the Transient Accommodation Industry hire them to manage their properties. As a business we believe that if you want the job done correctly and in an acceptable time frame you hire someone that specializes in that field. For instance, if an air conditioner fails you would hire an air conditioning repair person, not a handyman. As for our on-island agent, they are committed to one task and that is the operation of our property and the support to our customers. It also mystifies me as to why when you have someone dedicated solely to the Transient Accommodation Industry we limit them to only one owner. These people have the commitment to the owner and the customer whereas the Real Estate Broker is more committed to the sale and purchase of real estate. The on-island agent is just like the real estate broker, they won't fix the problem but they too have a list of contacts and telephone numbers of the people who will. The main difference our company has experienced is the on-island agent responds immediately whereas the Real Estate Broker responds when they can fit it into their busy schedule. Our company had a Real Estate Broker in the past and we received many telephone calls from customers complaining of no support, yet since we have had an on-island agent we have not received complaints only praise. If you were operating our business, who would you want to manage?

It is stated that the laws are for the protection of the consumer, and we believe this to be true. The actions do not show this, why do we limit the number of owners an on-island agent can handle to one, when they are dedicated to the industry and it is not just another duty placed upon them as it is to the real estate industry? The laws are in place, what is needed is better enforcement and then punish the offenders, not make it harder for those who comply or work specifically in the transient industry.

Let me ask you this? Does an on-island agent not have the same integrity as a real estate broker; are there no real estate brokers that might also cheat the system? Why is it the belief that real estate brokers will be able to fix a long ongoing problem with the owners that chooses to cheat the system? Looking from a state economic perspective, owners of transient accommodations with an on-island agent are creating employment, where as a real estate broker just adds a new transient accommodation to their already long list of clients and takes the job away from the on-island agent.

It appears that these bills that relate to transient accommodation management are regulating the number of owners an on-island agent may handle, yet there seems to be no regulation of the number a real estate broker can handle. Some brokers are already overwhelmed yet they will still take on a new client. How does allowing a real estate broker to handle in excess of one hundred transient accommodations protect the consumer? We must remember that a Transient Accommodation Owner is also a consumer when a real estate broker is involved. Where is our protection?

Respectfully Yours;

Ronald Bridges, President

Bridges to Paradise Rentals Inc.

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: remich4206@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Tuesday, February 17, 2015 6:45:42 AM

SB1031

Submitted on: 2/17/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemary E. Michaels	Individual	Oppose	No

Comments: Individual condo owners do not need a licensed realtor to be an on island contact for renters. This job can be done by any responsible Hawaii resident. Requiring licensed realtors for on island contact will discourage owners from renting and will result in loss of tax revenue for counties and loss of tourism. I have used licensed companies to manage my condo in the past and they gave me very few renters. That is why I decided to rent on my own and use an on-island person to be on-call for my unit. Rosemary Michaels, owner at Kihei Surfside Resort, Maui

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: cooneyshirley@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:33:28 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Shirley Cooney	Individual	Oppose	No

Comments: I oppose bill SB1031 because the bill states that a local contact must be a licensed realtor or a custodian/caretaker who must be an employee and work for only one owner. I, Shirley Cooney, do agree that my local contact needs to be a resident on the island. My local contact has been handling my unit for over 8 years. She is on call 24/7 which is not the case if we had a realtor managing our property. We have a very good relationship with our local contact and so do our guests. She always lets our guest know that she is available if they need anything. If a repair is required, she arranges to have it fixed. Our guests often mention to us that our contact person is so very helpful and accommodating. Requiring individual owners to have to hire realtors really will make it difficult to have control of our units. Please vote no on SB1031

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: slfmakiki@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 5:17:00 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Fitzpatrick	Individual	Oppose	No

Comments: Aloha Senators, Please do not pass this legislation (SB1031). Members of the general public are capable of being good stewards of managing transient accommodations, and do not need to be realtors; nor do these responsible individuals only need to oversee only one property. There are a number of reasons not to pass this, and others are more adept at explaining. Thank you for considering my testimony. Aloha, Stephanie

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: stephenstay@shaw.ca
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 1:46:06 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Taylor	Individual	Oppose	No

Comments: Comments: Dear Sir / Madam, I oppose proposed measure SB1031. As an owner of two vacation properties in Kihei and frequent traveler to Maui it makes little practical sense to me to require that the on-island agent be a real estate licensee. My current on-island representative performs admirably (and was recommended by my real estate agent) and certainly I follow all state regulations to the letter. Forgive me for being a tad cynical but it would appear that there are other forces afoot trying to decrease the number of rental by owner units on the market. Keeping the cost of accommodation affordable allows more guests to visit Hawaii and experience the aloha that we all love. There are lots of other destinations that vie for limited tourist dollars and we certainly don't want to discourage visitors to Hawaii. Please consider reasonable, thoughtful regulations that allow vacation property owners to comply with the current regulations without making it onerous, one sided or unfair. Thank you for your time. Dr. Stephen Taylor Victoria, B.C.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: GulliversMom@gmail.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 4:55:29 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Miller	Individual	Oppose	No

Comments: I oppose this legislation because it is not in the best interests of the small business community on Maui. This will put many small condo cleaning and maintenance companies out of business as real estate agents hold a monopoly on private rentals and the services required. This is an attempt by big business to shut out the small business competition on Maui and put all of the money that now goes to legal, honest individuals who pay their taxes and follow all the rules in the hands of a few real estate agents who now find that they can't provide compete with the personal service provided by independent owners. Yes, go after the illegal TVR's, but don't put the majority of honest legal vacation rental owners out of business in the process. Enforce the laws already on the books.

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From: [cushy1](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Sunday, February 15, 2015 1:57:12 PM

Dear Chair of Tourism, Senator Kahele ; and Chair of Consumer Protection, Roz Baker :

I and many others **strongly OPPOSE** this bill.

We support the requirement to have a contact resident on island, but oppose that the on-island agent be a real estate licensee.

Our current on-island agent is a responsible Hawaiian resident with great skills and integrity, and does a fantastic job. Why would we want to, or be made to, fire this person, simply because she is not a licensed realtor? Although Realtors know how to market and sell properties, they possess no special skills which are relevant to dealing with rental issues such as lock-outs, broken appliances, leaky taps, insects, etc etc. In fact, when asking Realtors how to attend to such problems, their reply has been "hire someone" !

We believe that designating one single professional body (realtors) and excluding all others to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. In fact, it creates another layer of bureaucracy and cost for rental operators, resulting in increased costs passed on to renters (tourists), making the Hawaiian vacation rental market yet *more expensive* and *less competitive* with the many lower cost foreign markets (including the US mainland).

We propose that this bill be discarded and that the current laws (e.g. Act 236) remain unchanged.

Regards,
T Malisko [HI](#)

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: tarasweet@earthlink.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 9:04:10 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Tara Sweet	Individual	Oppose	No

Comments: I don't understand why these realtors are allowed to go after our livelihood again. They just lost this same issue I think two years ago. Now here we are again with hearings and emails, etc. Can't you do something to stop these attacks that cost us time and money. I remember having to take off work several times for these hearings. Anyway, Yes as to a resident on-island contact. NO, TO REALTORS AS OUR AGENTS OR EES HANDLING OUR HOME. There is no need for any special license to watch over a home. Our island contacts and our family do an excellent job and know what to do when something breaks or someone is locked out and on and on. Realtors have no right to be escorted in to take money from s and no one in our family and none of our contacts want to be an employee. We already have agreements in place. No reasonable basis for this.....

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February 16th 2015

Dear Hawaiian Legislators

Re: HB 803

Mahalo for the opportunity to testify.

I STRONGLY OPPOSE SB1031.

We became owners of a vacation rental property in Ka'anapali in 2011 at a time when the real estate sector there was suffering and investors including Canadian investors were highly sought. We looked at all the aspects on the investment and came to some conclusions. First of all the property was zoned for hotels and vacation rentals were encouraged so we determined that ownership would be legal for short term rentals and we could later segue into a sometimes retirement home at a later date. We looked at what the Hotel portion of the Complex charged and at 50% of revenue the numbers did not make sense. We then looked at several Third party Property Managers and their rates at 30 to 40 % were also prohibitive. We researched the possibility of managing the property ourselves as we have done with our vacation property in Whistler B.C. and found that the investment then made sense. As active travellers we have rented from owners around the world and find that the care and attention you receive from an owner far exceeds the experience of some faceless property manager. We weighed the options and decided to purchase at Honua Kai.

We immediately registered for a business licence, started collecting and remitting GE and TA tax and we received our ITIN upon filing our 2011 taxes with both the IRS and the State. We now remit the TA and GE monthly and submit to both the IRS and State on a quarterly basis. We have our tax ID posted on our websites and we have our on-island representative contact information in our rental agreement and posted in our units. We strongly support the efforts of the Hawaiian Legislature in regulation Transient Accommodation and the collecting of all taxes owed and we feel that the regulations that were enacted when the earlier form of this Bill were considered in 2012 were the way to go.

Rental Property Managers and Realtors do not have a vested interest in providing the Hawaiian guest with a special experience as each condo they manage is just another number to them. My on-island representative does an excellent job BUT the world is now a virtual place so we also respond by cell and email instantly to our guests and between the both of us provide the spirit of ALOHA that our guests are in search of. We have 88 Five Star reviews in VRBO, our Hotel itself has dropped steadily in the Trip Advisor rankings which underlines that today's traveller wants the personal attention that dedicated owners provide.

I will include a couple of comments from recent guests. These guests love Hawaii and they love the extras that individual owners provide to them.

From Michael M from Snoqualmie Wash

“The homeowners, Terry and Jill, couldn't have been more accommodating. From the very first email inquiry to the day we arrived and during our stay, they were always on top of it. Renting from them was very easy. One morning our coffee pot went kaput. I emailed Jill and we had a replacement later that afternoon. We could not have asked for more prompt, faster service. They are awesome.”

From Mike A

Amazing!! 7 out of 5 Stars!!

“Owners: Jill and Terry were accommodating from start to finish and so easy to work with. Jill is quick to return calls if she doesn't answer the phone and she will take all the time you need answering questions. She provides detailed instructions in emails and with the welcome booklet in the condo. She makes renting the condo fool proof! I already know that when I return to Maui I will stay at Honua Kai and Jill has made that decision even easier because there is no one else I would rent from. I called a few other property managers in my search for a Vacation rental and trust me.”

This is but excerpts from two of over 80 reviews. I suggest that you to read the reviews on Trip Advisor and note the many complaints from guests who have stayed with Hotels or with SOME Property Managers as to poor or impersonal service and lack of detail. You can see why there has been a huge growth in the VRBO sector as owners are providing what today's traveller is seeking.

As Legislators of the great State of Hawaii it is in everyone's interest to have raving fans and repeat travellers as this is the foundation of the Hawaiian tourist industry. Turning this industry over to a monopoly of Realtors and Property Managers will NOT solve the problem of illegal transient rentals and it will not enhance the Hawaiian tourist experience.

I OPPOSE SB 1031

Respectfully submitted,

Terry Gardiner

K244 130 Kai Malina

Lahaina Hi 96761

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: mauiyc@me.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 11:07:14 AM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Martinez	Individual	Oppose	No

Comments: My wife and I have invested our life savings into our vacation rental business here in Maui. Our business contributes to the community by both employing many vendors and providing affordable tourist options. We are respectable business owners who pay substantial fees and taxes. We cannot afford more cost or we will simply no longer be able to operate this business. This small business is our livelihood. We urge you to support we small business operators as we all contribute greatly to this community. Thank You

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From: [Tim Hailey](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Monday, February 16, 2015 9:24:25 AM

Aloha Senator Kahele and Chair Roz Baker,

We support the requirement to have a contact who is a resident on island. However, We oppose the requirement that the on-island agent be a real estate licensee. The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated.

Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities.

Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory require

These bills fail to regulate the rate at which realtors can be compensated for this role.

We propose the language in ACT 326 in respect of "agent", and "local contact" be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

Respectfully, Tim Hailey

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: tjf702@aol.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Saturday, February 14, 2015 10:20:56 PM

SB1031

Submitted on: 2/14/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Tom Flynn	Individual	Oppose	No

Comments: We support the requirement to have an contact who is resident on island
· We oppose the requirement that the on-island agent be a real estate licensee o The on-island agent has no fiduciary responsibilities and therefore does not need to be licensed or regulated. o Realtors possess no special skills which are relevant to dealing with lock-outs, broken appliances, or natural disasters. Any responsible Hawaiian resident could handle these responsibilities. o Designating one single professional body (and excluding all other professional bodies) to fulfill a regulatory requirement creates a near monopoly. There is no economic justification for a monopoly. o These bills fail to regulate the rate at which realtors can be compensated for this role. · We propose the language in ACT 326 in respect of “agent”, and “local contact” be made consistent with the landlord tenant code and the responsibilities of the owner be made consistent with the real estate brokers and salesperson code HRS 467

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: tony.ohmann@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Monday, February 16, 2015 2:01:37 PM

SB1031

Submitted on: 2/16/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Tony & Dana Ohmann	Individual	Oppose	No

Comments: A realtor has no more qualifications to represent an island contact than any other individual. It almost appears that the powers to be want to complicate things to the point that it will only hurt our rental industry & we will look for more favorable locations for our investments.

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: tlvu@live.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 9:12:01 AM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Tuan Vu	Individual	Oppose	No

Comments: I oppose the requirement that the on-island resident must also be a real estate agent. We self-manage our Maui Vista condo in Kihei for the last three years. We take good care of our guests as there are many repeating customers and they recommend our condo to their friends and relatives. We collect the GE and TA taxes from our guests and submit them to the Hawaii Tax Department religiously. We sub-contract the maid service and the maintenance for our condo using local residents. Their name and phone numbers are given to our guests. When we have a maintenance issue or a lock-out there is always someone local that can resolve the problem quickly. It has never been an issue. I fail to see the reasoning behind forcing the local contact to be a real estate agent as he/she does not have the right skill sets to look after our guests. If nothing else it's introducing another layer of red tape that would cost us more to rent out our condo. We would have to raise the rent and this would not benefit our guests and they may well decide to NOT visit Hawaii due to the increased costs. I also oppose the amendment that the local resident who looks after our property must be considered to be an employee and can only work for us. This is not a full time job, it's not even part time. In our case, it's never more 6 hours a month and that's during peak season. This requirement is excessive and adds more red tape to the already heavily regulated system. For these reasons I oppose the bill. Mahalo for the opportunity to provide testimony.

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From: [Tim and Vicky Hailey](#)
To: [Sen. Gilbert Kahele](#); [CPN Testimony](#)
Subject: Opposing SB 1031
Date: Monday, February 16, 2015 9:33:37 AM

Aloha Senator Kahele and Chair Roz Baker,

My husband and I have been managing and renting our vacation rental on Maui for 11 years. We do frequent the island but we do have a designated on-island agent/contact that handles any issues that come up on the spot which is rare (i.e., lockouts, appliance breakdowns, repairs, etc.). We have never had any problems with this arrangement and our guests give us 5 star ratings and return year after year. We strongly oppose the use of a licensed realtor to manage the responsibilities that we so carefully manage over. We have contributed very significantly to the economy of Hawaii by attracting return guests over and over again and are constantly attracting new visitors to this great state. Please oppose HB 803 so that we can continue to contribute to this vibrant economy and sustain the growth in visitors to this great state.

Sincerely, Vicky Hailey

From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: wwardo@earthlink.net
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 8:43:15 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Will Ward	Individual	Oppose	No

Comments: We just did this very same thing where realtors go together and got a Bill to put money in their pockets at the expense of everyone else. We prevailed. YES - fine to have a resident on-island contact. NO - to require us to use a realtor who has no special ability to handle the problems of a rental home. --No two homes are the sae and the contact must be extremely familiar with the home, inside and out. Realtors just aren't and don't know what to do when they need to. My contacts are my neighbors when I am not on island which is posted, They do not want to be EE's and are happy to be included. This is not right!!!! And, what would be the charge? How can you figure that out when every home is different and the problems vary??? I heard all the realtors got together again recently to see if they could get another Bill to force everyone to use a Realtor. Didnt know if it was true, but I guess it was. ABSOLUTELY NO JUSTIFICATION FOR THIS MONOPOLY PLAY!

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From: mailinglist@capitol.hawaii.gov
To: [CPN Testimony](#)
Cc: nhmahi52@yahoo.com
Subject: Submitted testimony for SB1031 on Feb 17, 2015 09:10AM
Date: Sunday, February 15, 2015 3:35:49 PM

SB1031

Submitted on: 2/15/2015

Testimony for CPN/TSI on Feb 17, 2015 09:10AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
William M. Shepard	Individual	Oppose	No

Comments: We have owned a condo on Maui for many years and were full time residents until family situations caused us to return to the Mainland. We use our condo for vacations as well as a vacation rental that we control. We are licensed by the State of Hawaii and pay GET and TAT taxes on our rentals. Because it is our property, we are a bit selective as to our rentals. We feel that if rental agents or agencies controlled OUR rentals, our condo would be used and abused. We consider this action by the State of Hawaii to be unconstitutional as the State would dictate how and who would manage OUR condo. As owners we respect and take care of our investment whereas rental agents only look at the dollars in their pockets associated with the rentals and the number of units they fill. We have seen much of the rental agents' attitude and the demise of personal property. We definitely OPPOSE SB1031 and hope that this Bill will fail!

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Gary Klebs	Individual	Oppose
george pohoski	Individual	Oppose
Jennifer Talbott	Individual	Oppose
Monty Richmond	Individual	Oppose
Ivar Pedersen	Individual	Oppose
Keith Rathgaber	Individual	Oppose
Howard Fernandes	Individual	Oppose
Elisabeth Eppich	Individual	Oppose
Carol Walters	Individual	Oppose
Eileen Ryan	Individual	Oppose
suzanne louise	Individual	Oppose
Willa Marten	Individual	Oppose
Manfred Wagner	Individual	Oppose
Roger Schrock	Individual	Oppose
Patricia Mclaughlin	Individual	Oppose
John McNitt	Individual	Oppose
Susan Keithahn	Individual	Oppose
Dolores Smith	Individual	Oppose
Avrum Goodblatt	Individual	Oppose
Roderick Yu	Individual	Oppose
Katie Crump	Individual	Oppose
Heather Smith	Individual	Oppose
Jeanette Whalen	Individual	Oppose