

STAND. COM. REP. NO.

2661

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2699
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2699 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to clarify the treatment of resort fees under the transient accommodations tax.

More specifically, this measure specifies that resort fees, which are any mandatory charges or surcharges imposed for the use of a transient accommodation's property, services, or amenities, are included in the gross rental proceeds amount upon which the transient accommodations tax is calculated.

For purposes of a public hearing, your Committee circulated a proposed S.D. 1 (Proposed Draft) of the measure and notified the public that your Committee would be accepting testimony on the Proposed Draft that amends the measure by adding provisions to:

- (1) Rename "transient accommodations brokers" as "transient accommodations intermediaries" and include within the definition certain persons who market transient accommodations through wholesale travel companies and booking platforms, thereby making these entities subject to the transient accommodations tax;



- (2) Impose the transient accommodations tax on operators and transient accommodations intermediaries who arrange or book transient accommodations at noncommissioned negotiated contract rates;
- (3) Clarify that the transient accommodations tax liability shall be apportioned between an operator and transient accommodations intermediary with respect to that person's respective portion of the gross proceeds;
- (4) Clarify that fees unrelated to transient accommodations are exempt from the definition of "gross rental" or "gross rental proceeds";
- (5) Exempt from the definition of "gross rental" or "gross rental proceeds" the amount of transient accommodations taxes that are visibly passed on to the customer by a transient accommodations intermediary;
- (6) Require transient accommodations intermediaries who market transient accommodations through a travel agency at noncommissioned negotiated contract rates to register with the Director of Taxation and to pay a one-time \$15 fee; and
- (7) Requiring operators, transient accommodations intermediaries, and plan managers to register the name and physical address of each place of business in the State that is subject to the transient accommodations tax.

Your Committee received testimony in support of this measure from the Office of the Governor and Department of Taxation.

Your Committee received testimony in opposition to this measure from the Hawaii Tourism Authority, Aqua-Aston Hospitality, Hawaii Lodging and Tourism Association, Maui Hotel and Lodging Association, and one individual.

Your Committee received comments on this measure from the Department of the Attorney General and Tax Foundation of Hawaii.



Your Committee finds that, as transactions regarding the furnishing of transient accommodations are increasingly conducted over the Internet, a disparity in the tax treatment of certain entities involved in the furnishing of transient accommodations has arisen and resulted in the State not collecting the full amount of transient accommodations taxes from certain parties.

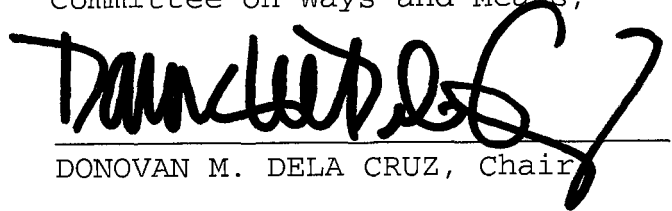
Your Committee has amended this measure by adopting the Proposed Draft and further amending the Proposed Draft by:

- (1) Requiring that transient accommodations intermediaries obtain prior consent from each of their operators and plan managers prior to registering their names and physical addresses with the Director of Taxation;
- (2) Clarifying that the transient accommodations tax applies to operators in all transactions, not only those in which transient accommodations are furnished at noncommissioned negotiated contract rates;
- (3) Clarifying that all transient accommodations intermediaries are required to register with the Director of Taxation, not only those that market transient accommodations through a travel agency;
- (4) Amending the definition of "transient accommodations intermediary" to clarify that a transient accommodations intermediary may be a travel agency, tour packager, or wholesale travel company, as opposed to a person who markets through a travel agency, tour packager, or wholesale tour company; and
- (5) Amending the definition of "resort fee" to include fees, regardless of whether or not they are mandatory.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2699, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2699, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DONOVAN M. DELA CRUZ, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* <i>SB 2699, Proposed SD</i> <i>GMA</i>	Committee Referral: WAM	Date: <i>2/28/18</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Pass, unamended 2312 </div> <div> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div> <input type="checkbox"/> Hold 2310 </div> <div> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
GALUTERIA, Brickwood		X		
HARIMOTO, Breene	X			
INOUE, Lorraine R.	X			
KAHELE, Kaiali'i		X		
KIDANI, Michelle N.		X		
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.		X		
WAKAI, Glenn		X		
TOTAL	<i>6</i>	<i>5</i>	<i>0</i>	<i>0</i>
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: 				
<div style="display: flex; justify-content: space-between; font-size: small;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: x-small;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes