

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

Ka 'Oihana 'Auhau  
P.O. BOX 259

HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 820, Relating to the Transient Accommodations Tax

**BEFORE THE:**

House Committee on Tourism

**DATE:** Tuesday, February 7, 2023

**TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 423

Chair Quinlan, Vice-Chair Hussey-Burdick, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 820 for your consideration.

H.B. 820 seeks to amend section 237D-2, Hawaii Revised Statutes (HRS), to establish a transient accommodations tax (TAT) rate of 25 percent on the gross rental or gross rental proceeds derived from furnishing "transient vacation units," which is defined as a dwelling unit or lodging unit advertised, solicited, offered, or provided to transient occupants for compensation for less than 30 days, with the exception of a "bed and breakfast home." This measure shall take effect on July 1, 2023.

First, the Department notes that "transient vacation units," as defined in the bill, appear to fall within the definition of "transient accommodations" in section 237D-1, HRS. Accordingly, this bill will result in "transient vacation units" being subject to the TAT at the combined rate of 35.25 percent.

Second, because "transient vacation units" may be booked through transient accommodations brokers ("TA brokers"), the Department recommends amending section 237D-2(b), in section 1, page 2, lines 1 through 6 of this bill, to require that the TA brokers pay their share of the TAT imposed under this bill, as follows:

(b) Every transient accommodations broker, travel agency, and tour packager who arranges transient accommodations at noncommissioned negotiated contract rates and every operator or other taxpayer who receives gross rental proceeds shall pay to the State the tax imposed by [subsection] subsections (a) and (f) as provided in this chapter.

Finally, the Department requests that the effective date of this bill be amended to no earlier than January 1, 2024. The Department notes, however, that due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session by January 1, 2024. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide comments on this measure.



Ke'ena Kuleana Ho'okipa O'Hawai'i  
Hawai'i Convention Center  
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
[kelepona tel 808 973 2255](tel:8089732255)  
[kelepa'i fax 808 973 2253](tel:8089732253)  
[kahua pa'a web hawaii-tourismauthority.org](http://hawaii-tourismauthority.org)

[Josh Green, M.D.](#)  
Governor

[John De Fries](#)  
President and Chief Executive Officer

Statement of  
**JOHN DE FRIES**  
Hawai'i Tourism Authority  
before the  
**COMMITTEE ON TOURISM**

Tuesday, February 7, 2023  
10:00 a.m.  
State Capitol Conference Room 423 & Videoconference

In consideration of  
**HOUSE BILL NO. 820**  
**RELATING TO THE TRANSIENT ACCOMODATIONS TAX**

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Aloha Chair Quinlan, Vice Chair Hussey-Burdick, and members of the Committee on Tourism,

The Hawai'i Tourism Authority (HTA) appreciates the opportunity to offer comments on HB820 which establishes a transient accommodations tax rate of twenty-five percent for furnishing transient vacation units to transient occupants for less than thirty days.

Our community-driven Destination Management Action Plans across Hawai'i clearly articulate a desire to manage visitor accommodations – specifically, taking steps to limit and regulate short-term vacation rentals in neighborhoods and other sensitive areas in our communities. We are generally supportive of state and county efforts to advance that priority.

We respectfully defer to the Department of Taxation for their expertise in the implementation of this particular measure.

Mahalo for the opportunity to provide these comments on HB820.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, 25% Tax on Transient Vacation Unit Rental

BILL NUMBER: HB 820

INTRODUCED BY: QUINLAN, AMATO, GATES, HASHIMOTO, HOLT, LAMOSAO, MARTEN, NAKASHIMA

EXECUTIVE SUMMARY: Establishes a transient accommodations tax rate of twenty-five per cent for furnishing transient vacation units to transient occupants for less than thirty days.

SYNOPSIS: Amends section 237D-2, HRS, by adding a new subsection imposing a 25% tax for furnishing accommodations in a transient vacation unit.

Defines “bed and breakfast home” as a detached dwelling unit in which overnight accommodations are advertised, solicited, offered, or provided, or any combination thereof, for compensation, including monetary payment, services, or labor of of guests, to guests for less than thirty days, and which is located in the same detached dwelling unit as that occupied by an owner, lessee, operator, or proprietor of the detached dwelling unit.

Defines “dwelling unit” as a room or rooms connected together, constituting an independent housekeeping unit for a family and that contains a single kitchen. "Dwelling unit" does not include two or more essentially separate structures, except for a token connection such as a covered walkway or trellis.

Defines “lodging unit” as a room or rooms connected together, constituting an independent living unit for a family and that does not contain any kitchen. "Lodging unit" does not include a resort time share vacation unit.

Defines “transient vacation unit” as a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or any combination thereof, for compensation, including monetary payment, services, or labor of transient occupants, to transient occupants for less than thirty days, other than a bed and breakfast home.

EFFECTIVE DATE: July 1, 2023.

STAFF COMMENTS: At the moment, it is not clear whether the proposed 25% rate is in lieu of or additional to the current 10.25% tax on transient accommodations generally.

Either way, there appears to be no justification for the punitive treatment of transient vacation units by the state. If the problem is that the unit is rented in violation of county code, it is not the State’s problem to enforce, and county ordinances do permit transient rentals of such units under certain conditions (which this bill apparently ignores).

Digested: 2/4/2023

**HB-820**

Submitted on: 2/5/2023 4:02:57 PM

Testimony for TOU on 2/7/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
John Chang	Individual	Oppose	Written Testimony Only

Comments:

**We oppose HB820 for the following reasons:**

**Transient Accommodation Tax is assessed on the gross rental proceeds of the EVENT of providing transient accommodations. This Bill proposes to assess an additional 25% based upon WHO is providing the transient accommodation. This extra 25% is applicable to only one category of taxpayer.**

**Current State law provides that transient accommodation tax (TAT) is levied against all those who provide transient accommodations. This includes hotels, timeshares, rooming house providers, condo hotels, and short term rentals of less than 180 days.**

**This Bill, however, only assesses the 25% additional tax on “short term vacation rentals” where the operator is not present (unhosted) and specifically omits all other providers of transient accommodations including a short term vacation rental with a hosted operator (Bed and Breakfast). It would not be assessed on hotels, timeshares, etc.**

**This Bill violates the United States Constitution as well as the Hawaii State Constitution. It disenfranchises a certain category of tax payer from those that are similarly situated. It is discriminatory in that it does not treat all providers of transient accommodations the same.**

**The Constitution’s 14th Amendment prohibits discrimination. This has been reaffirmed many times by the Supreme court with findings such as:**

**- the Constitution "neither knows nor tolerates classes among citizens." ... those words now are understood to state a commitment to the law's neutrality where the rights of persons are at stake. The Equal Protection Clause enforces this principle."**

**-“...no impediment should be interposed to the pursuits of any one, except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition ...” (emphasis added)**

**-“The Fourteenth Amendment to the Constitution says: "Nor shall any State deprive or deny to any person within its jurisdiction the equal protection of the laws .. all persons within the jurisdiction of the United States shall have the full and equal benefit of all laws ... and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other." (emphasis added)**

**We respectfully request that this Bill be held. The State is compelled to treat everyone within its jurisdiction with “equal protection” including taxes. Passing this Bill would violate the US and State constitutions.**

**Thank you for the opportunity to testify.**

**HB-820**

Submitted on: 2/6/2023 5:34:08 PM

Testimony for TOU on 2/7/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Penny Lee	Individual	Oppose	Written Testimony Only

Comments:

**OPPOSE Bill HB820**

Sure looks like Rep. Holt is looking for a career in/by the Hotel industry? Throwing local small businesses under the bus.

This bill is dead on arrival. To even suggest such prejudicial and punitive taxation and will be challenged in court for sure.

Lets remember who introduced this ridiculous bill:

QUINLAN, HASHIMOTO, HOLT, HUSSEY-BURDICK, ICHIYAMA, KILA, KOBAYASHI, LOWEN, MARTEN, MATAYOSHI, NAKASHIMA, TAKENOUCI, Chun

**HB-820**

Submitted on: 2/6/2023 5:41:57 PM

Testimony for TOU on 2/7/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Suzanne Sternlicht	Individual	Oppose	Written Testimony Only

Comments:

I am vehemently opposed HB 820 becoming law. This motion will only hurt homeowners who supplement their income with renting out rooms in their house by making rental costs so prohibitively expensive for potential renters. We are already charging guests 17.962% and I hear from visitors that the cost of staying in my home with such high tax has made traveling to Hawai'i almost out of reach. I think that the revenue could be raised by taxing hotels at the same rate as STVR's rather than targeting individual home owners.



**HB-820**

Submitted on: 2/7/2023 12:06:34 AM

Testimony for TOU on 2/7/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Adelaide Entwistle	Individual	Oppose	Written Testimony Only

Comments:

The intention of this bill is to further encumber and burden an underserved and marginalized community who provide housing to support our community and our people. We are property owners who provide housing equally to all. By raising the tax and taking away our homeowners exemptions and not putting a cap on our property taxes, like everyone else has, you have already made it impossible for us to contribute to our community and our families survival. We are the locals, the mom and pop people who are providing housing to the visitors who support your shops, your schools, our cultural programs, our non-profits, our artists and carriers of culture and your local businesses. With this tax, you are chasing the people of Hawaii away from our land and generations of those before us who hold our culture dear.

Other communities across the country who have tried this, who thought that banning and hurting vacation rentals owners, would bring more tax revenue. They were entirely wrong. What it did was shut down small businesses and only benefit larger corporations and government administration.

The reasons you want to do this are not sound. Do the research by an independent auditor and you will see the deadly results to communities when vacation rental taxes are raised. We do not want to see this happen to locals and this is exactly what HB820 does. It hurts Hawaii.

You are taxing us to death, not just the death of all small businesses, but individuals themselves, local families forced to move to the mainland because they can't make ends meet without housing visitors that support our community, often seniors at the end of their lives or in our sunset years. You also hurt younger generations who can not afford to live here and raise their families without renting out their rooms. Why do you want to do this to us to only serve large corporations? NO to HB820 and YES to the people of Hawaii!

**HB-820**

Submitted on: 2/7/2023 11:22:22 AM

Testimony for TOU on 2/7/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
M Mulu	Individual	Oppose	Written Testimony Only

Comments:

This proposal in no way helps the citizens and residents of Hawaii, nor will it help the state in the long run.

We already pay over 10% in TA taxes. Your proposal will inhibit people from wanting to book our short term vacation rentals.

If this passes, many STVR and TA owners will have to shutter their doors which will result in you not getting even less tax money, as well as very likely, more homeless residents since we will not be able to afford paying our mortgages or be able to afford cost of living in the state.

STVR and TA rentals are not the problem here. Hawaii spends so much money on advertising to tourists and then you blame residents for over tourism, the very people who live here and invest their hard earned money here are the ones who must pay dearly. Put an end to non residents being able to purchase land here. Heavily tax THEM since their money doesn't help our community at all, and since they are the reason home prices are high and many homes remain empty.

Utilize government funds in meaningful ways, to purchase vacant land and construct apartment complexes and new neighborhoods.