

**COUNCIL OF THE COUNTY OF MAUI**

**POLICY, ECONOMIC DEVELOPMENT,  
AND AGRICULTURE COMMITTEE**

September 8, 2017

**Committee  
Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy, Economic Development, and Agriculture Committee, having met on August 22, 2017, makes reference to County Communication 17-8, from Council Chair Mike White, relating to Hawaii State Association of Counties ("HSAC") matters.

Your Committee notes each year HSAC may compile a package of proposals and priorities to be presented to the State Legislature, pursuant to Section 13C of the HSAC Bylaws. Only those proposals and priorities approved by all four councils are included in the annual HSAC Legislative Package.

Your Committee has received four proposals for the 2018 HSAC Legislative Package, including State bills to: increase revenue for each county's affordable housing fund through a one-percent conveyance tax on the sale of condominiums or single-family residences with a value of more than \$2,000,000; raise the State minimum wage to \$15.00 per hour beginning January 1, 2019; amend the Transient Accommodations Tax ("TAT") law to require online travel companies and other transient accommodations remarketers to pay TAT on their portion of proceeds from the booking of accommodations and increase TAT revenue to the benefit of every county in the State; and reinstate Section 281-32.3, Hawaii Revised Statutes ("HRS"), relating to one-day special liquor licenses for fundraising events.

Conveyance Tax Proposal

By correspondence dated August 16, 2017, Councilmember Elle Cochran transmitted a proposed resolution entitled "APPROVING FOR

**COUNCIL OF THE COUNTY OF MAUI**

**POLICY, ECONOMIC DEVELOPMENT,  
AND AGRICULTURE COMMITTEE**

Page 2

**Committee  
Report No. \_\_\_\_\_**

INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO INCREASE REVENUE FOR EACH COUNTY'S AFFORDABLE HOUSING FUND THROUGH A ONE PERCENT CONVEYANCE TAX." The purpose of the proposed resolution is to approve for inclusion in the 2018 HSAC Legislative Package a proposed State bill, attached to the resolution as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX." The purpose of the proposed bill is to increase revenue for each county's affordable housing fund through a one-percent conveyance tax on the sale of condominiums or single-family residences with a value of more than \$2,000,000.

Your Committee noted this proposal seeks a one-percent conveyance tax on high-end luxury properties as an alternative to increasing real property tax rates to fund each county's affordable housing fund.

Your Committee noted 50 percent of the conveyance tax collected by the State is deposited into an affordable housing fund maintained by the State. The revenue generated from the one-percent conveyance tax would be deposited into the respective county's affordable housing fund where the property was sold allowing for county control of the funds.

The one-percent conveyance tax would be repealed in five years, or June 2023.

Your Committee voted 7-0 to recommend adoption of the proposed resolution. Committee Chair Sugimura, Vice-Chair Crivello, and members Atay, Carroll, Cochran, King, and White voted "aye." Committee members Guzman and Hokama were excused.

Minimum Wage Proposal

By correspondence dated August 16, 2017, Councilmember Elle Cochran transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES

**COUNCIL OF THE COUNTY OF MAUI**

# **POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE**

Page 3

**Committee  
Report No. \_\_\_\_\_**

LEGISLATIVE PACKAGE A STATE BILL TO INCREASE THE STATE MINIMUM WAGE TO \$15.00 PER HOUR BEGINNING JANUARY 1, 2019.” The purpose of the proposed resolution is to approve for inclusion in the 2018 HSAC Legislative Package a proposed State bill, attached to the resolution as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO THE MINIMUM WAGE.” The purpose of the proposed bill is to raise the State minimum wage to \$15.00 per hour beginning January 1, 2019.

Your Committee noted other factors may need to be considered, including tips, whether full or upgraded health care coverage is provided by employers, and the number of employees at a workplace. Your Committee also noted a sharp rise in the minimum wage might tend to exclude inexperienced job seekers from a workplace, and that a more modest increase to the minimum wage than \$5.75 per hour (from \$9.25 to \$15.00) be incorporated. Your Committee suggested these factors be considered in revising the proposal.

Your Committee deferred acting on the proposal to allow a revised proposal to be prepared and transmitted to Committee.

### TAT Proposal

By correspondence dated August 16, 2017, Council Chair Mike White transmitted a proposed resolution entitled “APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO REQUIRE ONLINE TRAVEL COMPANIES AND REMARKETERS TO PAY TRANSIENT ACCOMMODATIONS TAX ON THEIR RESPECTIVE PORTIONS OF GROSS RENTAL PROCEEDS FROM THE PAYMENT OF ACCOMMODATIONS.” The purpose of the proposed resolution is to approve for inclusion in the 2018 HSAC Legislative Package a proposed State bill, attached to the resolution as Exhibit “A,” entitled “A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX.” The purpose of the proposed bill is to amend the TAT law to require online travel companies and other transient accommodations remarketers to pay TAT on their portion of

COUNCIL OF THE COUNTY OF MAUI

# POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE

Page 4

**Committee  
Report No.** \_\_\_\_\_

proceeds from the booking of accommodations to increase TAT revenue to the benefit of every county in the State.

By correspondence dated August 21, 2017, Council Chair Mike White transmitted a revised proposed resolution, attaching a proposed State bill, incorporating nonsubstantive revisions.

Your Committee noted the proposed bill would allow the State to collect TAT from transient accommodations remarketers such as online and wholesale travel companies. The monies collected by the State shall be distributed directly to the counties.

Your Committee further noted the State Supreme Court in 2015 required transient accommodations remarketers to pay general excise tax ("GET") on their proceeds to the State. Remarketers were not required to pay TAT since the responsibility for TAT remained with the operator of the lodging accommodations.

Your Committee further noted the amount of TAT collected is often twice as much as GET. This represents a significant amount of money being collected by remarketers that is not passed on to the State.

Your Committee voted 7-0 to recommend adoption of the revised proposed resolution. Committee Chair Sugimura, Vice-Chair Crivello, and members Atay, Carroll, Cochran, King, and White voted "aye." Committee members Guzman and Hokama were excused.

### Liquor License Proposal

By correspondence dated August 16, 2017, the Chair of your Committee transmitted a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO REINSTATE SECTION 281-32.3, HAWAII REVISED STATUTES." The purpose of the proposed resolution is to approve for inclusion in the 2018 HSAC Legislative Package

**COUNCIL OF THE COUNTY OF MAUI**  
**POLICY, ECONOMIC DEVELOPMENT,**  
**AND AGRICULTURE COMMITTEE**

Page 5

**Committee**  
**Report No. \_\_\_\_\_**

a proposed State bill, attached to the resolution as Exhibit "A," entitled "A BILL FOR AN ACT RELATING TO ONE-DAY SPECIAL LIQUOR LICENSES." The purpose of the proposed bill is to reinstate Section 281-32.3, HRS, relating to one-day special liquor licenses for fundraising events.

Your Committee noted in the 2008 State legislative session, this section of the HRS was repealed by Act 168 as a part of a housekeeping measure. The purpose of Act 168 was to clarify language, correct errors, and remove unnecessary and obsolete references in Chapter 281, HRS. There was no intent, nor have the counties, other than Maui, substantially changed the way one-day special liquor license applications are processed for fundraising events.

Nevertheless, Maui County's Department of Liquor Control in 2016 imposed new requirements for processing one-day special liquor license applications. The State Department of the Attorney General opined that Maui County's revised processing procedures are not required by State law. Your Committee Chair proposed reinstating Section 281-32.3, HRS, as a means to return to prior application procedures.

Your Committee noted concerns about proposing a change to State law that appears to be unnecessary simply to allow Maui County's Department of Liquor Control the ability to modify a process it already has the authority to change. The First Deputy Corporation Counsel said the Department of Liquor Control is considering proposed rule amendments which may resolve the issue.

Your Committee deferred the proposal pending further discussion.

Your Committee is in receipt of two revised proposed resolutions relating to the Conveyance Tax Proposal and TAT Proposal, respectively, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

**COUNCIL OF THE COUNTY OF MAUI**  
**POLICY, ECONOMIC DEVELOPMENT,**  
**AND AGRICULTURE COMMITTEE**

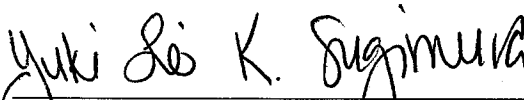
Page 6

**Committee**  
**Report No. \_\_\_\_\_**

Your Policy, Economic Development, and Agriculture Committee  
RECOMMENDS the following:

1. That Resolution \_\_\_\_\_, attached hereto, entitled  
"APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE  
ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A  
STATE BILL TO INCREASE REVENUE FOR EACH COUNTY'S  
AFFORDABLE HOUSING FUND THROUGH A ONE PERCENT  
CONVEYANCE TAX," be ADOPTED; and
  
2. That Resolution \_\_\_\_\_, attached hereto, entitled  
"APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE  
ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A  
STATE BILL TO REQUIRE ONLINE TRAVEL COMPANIES AND  
OTHER TRANSIENT ACCOMMODATIONS REMARKETERS  
TO PAY TRANSIENT ACCOMMODATIONS TAX ON THEIR  
RESPECTIVE PORTIONS OF GROSS RENTAL PROCEEDS  
FROM THE PAYMENT OF ACCOMMODATIONS," be  
ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of  
the Council.

  
\_\_\_\_\_  
YUKI LEI K. SUGIMURA, Chair

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2018  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
INCREASE REVENUE FOR EACH COUNTY'S  
AFFORDABLE HOUSING FUND THROUGH A  
ONE PERCENT CONVEYANCE TAX

WHEREAS, the lack of affordable housing in every county in the State is a crisis; and

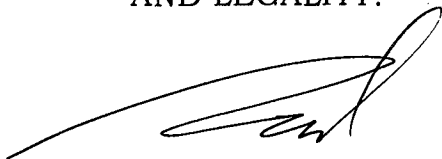
WHEREAS, each county's affordable housing situation is unique, and solutions and funding are best managed locally; and

WHEREAS, a statewide mechanism to allow each county to increase revenue for its affordable housing fund is needed; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase revenue for each county's affordable housing fund through a one percent conveyance tax on the sale of residential properties over \$2,000,000, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM  
AND LEGALITY:



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EDWARD S. KUSHI, JR.  
Department of the Corporation Counsel  
County of Maui  
2017-0098  
PEA-3(1) 2017-08-28 Reso HSAC Affordable Housing Fund

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# A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 247-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§247-2 Basis and rate of tax. The tax imposed by section  
4 247-1 shall be based on the actual and full consideration  
5 (whether cash or otherwise, including any promise, act,  
6 forbearance, property interest, value, gain, advantage, benefit,  
7 or profit), paid or to be paid for all transfers or conveyance  
8 of realty or any interest therein, that shall include any liens  
9 or encumbrances thereon at the time of sale, lease, sublease,  
10 assignment, transfer, or conveyance, and shall be at the  
11 following rates:

12           (1) Except as provided in paragraph (2):

13                   (A) Ten cents per \$100 for properties with a value of  
14                   less than \$600,000;

15                   (B) Twenty cents per \$100 for properties with a value  
16                   of at least \$600,000, but less than \$1,000,000;



**.B. NO.**           

- 1           (C) Thirty cents per \$100 for properties with a value
- 2                   of at least \$1,000,000, but less than \$2,000,000;
- 3           (D) Fifty cents per \$100 for properties with a value
- 4                   of at least \$2,000,000, but less than \$4,000,000;
- 5           (E) Seventy cents per \$100 for properties with a
- 6                   value of at least \$4,000,000, but less than
- 7                   \$6,000,000;
- 8           (F) Ninety cents per \$100 for properties with a value
- 9                   of at least \$6,000,000, but less than
- 10                  \$10,000,000; and
- 11           (G) One dollar per \$100 for properties with a value
- 12                  of \$10,000,000 or greater; and
- 13       (2) For the sale of a condominium or single family
- 14                  residence for which the purchaser is ineligible for a
- 15                  county homeowner's exemption on property tax:
- 16           (A) Fifteen cents per \$100 for properties with a
- 17                   value of less than \$600,000;
- 18           (B) Twenty-five cents per \$100 for properties with a
- 19                   value of at least \$600,000, but less than
- 20                   \$1,000,000;
- 21           (C) Forty cents per \$100 for properties with a value
- 22                   of at least \$1,000,000, but less than \$2,000,000;

\_\_\_ .B. NO. \_\_\_

- 1 (D) Sixty cents per \$100 for properties with a value
- 2 of at least \$2,000,000, but less than \$4,000,000;
- 3 (E) Eighty-five cents per \$100 for properties with a
- 4 value of at least \$4,000,000, but less than
- 5 \$6,000,000;
- 6 (F) One dollar and ten cents per \$100 for properties
- 7 with a value of at least \$6,000,000, but less
- 8 than \$10,000,000; and
- 9 (G) One dollar and twenty-five cents per \$100 for
- 10 properties with a value of \$10,000,000 or
- 11 greater [7]; and

12 (3) In addition to the rate established by paragraph (1)  
13 or (2), for the sale of a condominium or single family  
14 residence: One dollar per \$100 for properties with a  
15 value of more than \$2,000,000,

16 of such actual and full consideration; provided that in the case  
17 of a lease or sublease, this chapter shall apply only to a lease  
18 or sublease whose full unexpired term is for a period of five  
19 years or more, and in those cases, including (where appropriate)  
20 those cases where the lease has been extended or amended, the  
21 tax in this chapter shall be based on the cash value of the  
22 lease rentals discounted to present day value and capitalized at

\_\_\_\_.B. NO. \_\_\_\_\_

1 the rate of six per cent, plus the actual and full consideration  
2 paid or to be paid for any and all improvements, if any, that  
3 shall include on-site as well as off-site improvements,  
4 applicable to the leased premises; and provided further that the  
5 tax imposed for each transaction shall be not less than \$1."

6 SECTION 2. Section 247-7, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§247-7 **Disposition of taxes.** All taxes collected under  
9 this chapter shall be paid into the state treasury to the credit  
10 of the general fund of the State, to be used and expended for  
11 the purposes for which the general fund was created and exists  
12 by law; provided that of the taxes collected each fiscal year:

13 (1) Ten per cent of the revenue from application of the  
14 rates established in paragraph (1) and (2) of section  
15 247-2, or \$6,800,000, whichever is less, shall be paid  
16 into the land conservation fund established pursuant  
17 to section 173A-5; [and]

18 (2) Fifty per cent of the revenue from application of the  
19 rates established in paragraph (1) and (2) of section  
20 247-2, or \$38,000,000, whichever is less, shall be  
21 paid into the rental housing revolving fund  
22 established by section 201H-202[-]; and

**B. NO.**     

1       (3) One hundred percent of the revenue generated in each  
2       county from application of the rate established in  
3       paragraph (3) of section 247-2 shall be paid into the  
4       respective county's affordable housing fund and shall  
5       only be used to increase the supply of affordable  
6       housing by the following means:

7       (A) the purchase of existing housing units and other  
8       interests in real property;

9       (B) the planning, design, or construction of housing  
10       units;

11       (C) making grants or loans to nonprofit  
12       organizations, including community land trusts;  
13       or

14       (D) investment in public infrastructure."

15       SECTION 3. Statutory material to be deleted is bracketed  
16       and in strikethrough. New statutory material is underscored.

17       SECTION 4. This Act shall take effect upon its approval;  
18       provided that this Act shall be repealed on June 30, 2023.

INTRODUCED BY: \_\_\_\_\_

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO REQUIRE ONLINE TRAVEL COMPANIES AND OTHER TRANSIENT ACCOMMODATIONS REMARKETERS TO PAY TRANSIENT ACCOMMODATIONS TAX ON THEIR RESPECTIVE PORTIONS OF GROSS RENTAL PROCEEDS FROM THE PAYMENT OF ACCOMMODATIONS

WHEREAS, since the enactment of the Transient Accommodations Tax (TAT) in 1986, the method visitors use to book reservations to stay in Hawaii has changed significantly and now includes online booking and payment through third-party websites; and

WHEREAS, amending the Transient Accommodations Tax law to require online travel companies and other transient accommodations remarketers to pay TAT on their portion of proceeds from the booking of accommodations would increase TAT revenue, to the benefit of every county in the State of Hawaii; and

WHEREAS, the share of the TAT to the counties has been capped at \$93 million and the additional tax revenues generated by this proposed bill will be added to the counties' \$93 million allocation; now, therefore,


BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to require online travel companies and other transient accommodations remarketers to pay transient accommodations tax on their respective portions of gross rental proceeds from the payment of accommodations, is approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and

**Resolution No.** \_\_\_\_\_

2. That a copy of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

APPROVED AS TO FORM  
AND LEGALITY:



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EDWARD S. KUSHI, JR.  
Department of the Corporation Counsel  
County of Maui  
2017-0098  
PEA-3(1) 2017-08-28 Reso HSAC TAT

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A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. Since the enactment of Act 340 in 1986,  
3 visitors to Hawaii have paid a tax on the retail value of their  
4 lodging. Known as the "transient accommodations tax," or "TAT,"  
5 the tax is assessed and collected by the operator on the gross  
6 rental proceeds derived from furnishing transient accommodations  
7 to visitors. Operators are obligated to impose the TAT, collect  
8 it from visitors, and pay the tax to the State each month. TAT  
9 revenues are then used to support the Hawaii Convention Center;  
10 allocated to a special fund to protect, preserve, and maintain  
11 natural resources, including beaches, important to the visitor  
12 industry; and distributed to the counties to help support  
13 services relied upon by tourists such as police and fire  
14 protection, ocean safety personnel, parks, water, sewer, and  
15 roadways.

16 Act 340 was written prior to the explosion of internet  
17 sales of hotel rooms and fails to capture all required TAT owed  
18 to the State. There are a variety of ways visitors can book

\_\_\_\_.B. NO. \_\_\_\_\_

1 hotel rooms, such as pre-paying their hotel stays through Online  
2 Travel Companies ("OTCs"). Wholesale travel companies and OTCs  
3 contract for rooms with hotels at wholesale rates, add their  
4 mark-up, and then resell rooms to guests. Hotels may only know  
5 the wholesale, or net, rental rate paid for the room by the OTCs  
6 and not the full retail rate paid by the guest. OTCs are billed  
7 for rooms at the wholesale rate and the TAT is collected by  
8 hotels and paid to the State based on this discounted rate.  
9 With each online transaction processed in this way, the State  
10 loses the difference in tax between the wholesale or net rental  
11 rate and the full retail or gross rental rate.

12 The purpose of this Act is to ensure the State receives the  
13 full amount of TAT calculated based upon the full or gross  
14 rental price paid by the visitor, whether that amount is  
15 collected by the local Hawaii operator, travel agent, wholesale  
16 travel company, or online by an OTC.

17 PART II

18 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§237D-1 Definitions. Whenever used in this chapter,  
21 unless the context otherwise requires:

22 "Department" means the department of taxation.



\_\_\_\_.B. NO. \_\_\_\_\_

1           "Director" means the director of taxation.

2           "Fair market rental value" means an amount equal to  
3 one-half of the gross daily maintenance fees that are paid by  
4 the owner and are attributable to the time share unit located in  
5 Hawaii. Gross daily maintenance fees include maintenance costs,  
6 operational costs, insurance, repair costs, administrative  
7 costs, taxes, other than transient accommodations taxes, resort  
8 fees, and other costs including payments required for reserves  
9 or sinking funds. Amounts paid for optional goods and services  
10 such as food and beverage services or beach chair or umbrella  
11 rentals shall be excluded from fair market rental value.

12           "Gross rental" or "gross rental proceeds" means the  
13 gross receipts, cash or accrued, of the taxpayer received as  
14 compensation for the furnishing of transient accommodations and  
15 the value proceeding or accruing from the furnishing of such  
16 accommodations without any deductions on account of the cost of  
17 property or services sold, the cost of materials used, labor  
18 cost, taxes, royalties, interest, discounts, or any other  
19 expenses whatsoever. Every taxpayer shall be presumed to be  
20 dealing on a cash basis unless the taxpayer proves to the  
21 satisfaction of the department of taxation that the taxpayer is  
22 dealing on an accrual basis and the taxpayer's books are so

\_\_\_\_.B. NO. \_\_\_\_\_

1 kept, or unless the taxpayer employs or is required to employ  
2 the accrual basis for the purposes of the tax imposed by chapter  
3 237 for any taxable year in which event the taxpayer shall  
4 report the taxpayer's gross income for the purposes of this  
5 chapter on the accrual basis for the same period.

6           The words "gross rental" or "gross rental proceeds"  
7 shall not be construed to include the amounts of taxes imposed  
8 by chapter 237 or this chapter on operators of transient  
9 accommodations and passed on, collected, and received from the  
10 consumer as part of the receipts received as compensation for  
11 the furnishing of transient accommodations. Where transient  
12 accommodations are furnished through arrangements made by a  
13 transient accommodations remarketer or travel agency [~~or tour~~  
14 ~~packager~~] as defined under section 468L-1 at noncommissioned  
15 negotiated contract rates and the gross income is divided  
16 between the operator of transient accommodations on the one hand  
17 and the transient accommodations remarketer, or travel agency  
18 [~~or tour packager~~] on the other hand, [~~gross rental or gross~~  
19 ~~rental proceeds to the operator means only the respective~~  
20 ~~portion allocated or distributed to the operator,~~] the tax  
21 imposed by this chapter shall apply to each such person with  
22 respect to such person's respective portion of the proceeds, and

.B. NO.           

1 no more. For purposes of this definition, where the operator  
2 maintains a schedule of rates for identifiable groups of  
3 individuals, such as kamaainas, upon which the accommodations  
4 are leased, let, or rented, gross rental or gross rental  
5 proceeds means the receipts collected and received based upon  
6 the scheduled rates and recorded as receipts in its books and  
7 records.

8           "Lease", "let", or "rental" means the leasing or  
9 renting of living quarters or sleeping or housekeeping  
10 accommodations in hotels, apartment hotels, motels, condominium  
11 property regimes or apartments defined in chapter 514A or units  
12 defined in chapter 514B, cooperative apartments, rooming houses,  
13 or other places in which lodgings are regularly furnished to  
14 transients for a consideration, without transfer of the title of  
15 such property.

16           "Local contact" means an individual residing on the  
17 same island as the transient accommodation or resort time share  
18 vacation unit or an entity with a place of business and at least  
19 one employee, officer, partner, member, or other person working  
20 on behalf of the company who is residing on the same island as  
21 the transient accommodation or resort time share vacation unit.

\_\_\_\_.B. NO. \_\_\_\_\_

1           "Occupant" means an owner of a resort time share  
2 vacation plan or other person occupying the resort time share  
3 vacation unit.

4           "Operator" means any person operating a transient  
5 accommodation, whether as owner or proprietor or as lessee,  
6 sublessee, mortgagee in possession, licensee, or otherwise, or  
7 engaging or continuing in any service business which involves  
8 the actual furnishing of transient accommodation.

9           "Owner" means any person who owns a resort time share  
10 vacation interest; provided that to the extent and for those  
11 purposes provided in an agreement of sale, the vendee under the  
12 agreement of sale shall be considered the owner of the resort  
13 time share vacation interest.

14           "Plan manager" means a person who undertakes the  
15 duties, responsibilities, and obligations of managing a resort  
16 time share vacation plan or is required to act for a resort time  
17 share vacation plan under this chapter.

18           "Resort time share vacation interest" means any  
19 interest in a resort time share vacation unit or plan which  
20 entitles the owner thereof to the use, occupancy, or possession  
21 of a resort time share vacation unit on a periodically recurring  
22 basis.

1           "Resort time share vacation plan" means any plan or  
2 program subject to chapter 514E in which the use, occupancy, or  
3 possession of one or more resort time share vacation units  
4 circulates among various persons for less than a sixty-day  
5 period in any year, for any occupant. The term resort time  
6 share vacation plan includes both resort time share vacation  
7 ownership plans and resort time share vacation use plans, as  
8 follows:

9           (1) "Resort time share vacation ownership plan" means  
10 any arrangement whether by tenancy in common,  
11 sale, deed, or by other means, whereby the  
12 purchaser receives an ownership interest and the  
13 right to use the property for a specific or  
14 discernible period by temporal division.

15          (2) "Resort time share vacation use plan" means any  
16 arrangement, excluding normal hotel operations,  
17 whether by membership agreement, lease, rental  
18 agreement, license, use agreement, security, or  
19 other means, whereby the purchaser receives a  
20 right to use accommodations or facilities, or  
21 both, in a resort time share vacation unit for a  
22 specific or discernible period by temporal

\_\_\_\_.B. NO. \_\_\_\_\_

1                   division, but does not receive an ownership  
2                   interest.

3                   "Resort time share vacation unit" means the actual and  
4 promised accommodations, and related facilities, which are the  
5 subject of a resort time share vacation plan.

6                   "Transient accommodations" means the furnishing of a  
7 room, apartment, suite, single family dwelling, or the like to a  
8 transient for less than one hundred eighty consecutive days for  
9 each letting in a hotel, apartment hotel, motel, condominium  
10 property regime or apartment as defined in chapter 514A or unit  
11 as defined in chapter 514B, cooperative apartment, dwelling  
12 unit, or rooming house that provides living quarters, sleeping,  
13 or housekeeping accommodations, or other place in which lodgings  
14 are regularly furnished to transients.

15                   "Transient accommodations [~~broker~~] remarketer" means  
16 any person or entity, including but not limited to persons who  
17 operate online websites, online travel agencies, or online  
18 booking agencies, that offers, lists, advertises, or accepts  
19 reservations or collects whole or partial payment for transient  
20 accommodations or resort time share vacation interests, units,  
21 or plans."

1 SECTION 3. Section 237D-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Every operator, transient accommodations remarketer  
4 or travel agency, who collect whole or partial payment for  
5 transient accommodations shall pay to the State the tax imposed  
6 by subsection (a), as provided in this chapter."

7 SECTION 4. Section 237D-4, Hawaii Revised Statutes, is  
8 amended by amending subsection (d) to read as follows:

9 "(d) Failure to meet the requirements of subsection (c)  
10 shall be unlawful. The department may issue citations to any  
11 person, including operators, plan managers, travel agencies and  
12 transient accommodations [~~brokers~~] remarketers, who violates  
13 subsection (c). A citation issued pursuant to this subsection  
14 for each transient accommodation or resort time share vacation  
15 interest, plan, or unit in violation of subsection (c) shall  
16 include a monetary fine of not less than:

- 17 (1) \$500 per day, for a first violation for which a  
18 citation is issued;  
19 (2) \$1,000 per day, for a second violation for which  
20 a citation is issued; and  
21 (3) \$5,000 per day, for a third and any subsequent  
22 violation for which a citation is issued."

\_\_\_\_.B. NO. \_\_\_\_\_

1 SECTION 5. Section 237D-6, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) On or before the twentieth day of each calendar  
4 month, every [~~operator taxable, or plan manager~~] taxpayer liable  
5 under this chapter during the preceding calendar month shall  
6 file a sworn return with the director in such form as the  
7 director shall prescribe together with a remittance for the  
8 amount of the tax in the form required by section 237D-6.5.  
9 Sections 237-30 and 237-32 shall apply to returns and penalties  
10 made under this chapter to the same extent as if the sections  
11 were set forth specifically in this section."

12 SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§237D-6.5 Remittances; distribution to counties.** (a)  
15 All remittances of taxes imposed under this chapter shall be  
16 made by cash, bank drafts, cashier's check, money order, or  
17 certificate of deposit to the office of the taxation district to  
18 which the return was transmitted.

19 (b) Revenues collected under this chapter shall be  
20 distributed in the following priority, with the excess revenues  
21 to be deposited into the general fund:



\_\_\_\_.B. NO. \_\_\_\_\_

- 1           (1) \$1,500,000 shall be allocated to the Turtle Bay  
2           conservation easement special fund beginning July  
3           1, 2015, for the reimbursement to the state  
4           general fund of debt service on reimbursable  
5           general obligation bonds, including ongoing  
6           expenses related to the issuance of the bonds,  
7           the proceeds of which were used to acquire the  
8           conservation easement and other real property  
9           interests in Turtle Bay, Oahu, for the  
10          protection, preservation, and enhancement of  
11          natural resources important to the State, until  
12          the bonds are fully amortized;
- 13          (2) \$26,500,000 shall be allocated to the convention  
14          center enterprise special fund established under  
15          section 201B-8;
- 16          (3) \$82,000,000 shall be allocated to the tourism  
17          special fund established under section 201B-11;  
18          provided that:
- 19                (A) Beginning on July 1, 2012, and ending on  
20                June 30, 2015, \$2,000,000 shall be expended  
21                from the tourism special fund for  
22                development and implementation of

\_\_\_\_.B. NO. \_\_\_\_\_

1 initiatives to take advantage of expanded  
2 visa programs and increased travel  
3 opportunities for international visitors to  
4 Hawaii;

5 (B) Of the \$82,000,000 allocated:

6 (i) \$1,000,000 shall be allocated for the  
7 operation of a Hawaiian center and the  
8 museum of Hawaiian music and dance at  
9 the Hawaii convention center; and

10 (ii) 0.5 per cent of the \$82,000,000 shall  
11 be transferred to a sub-account in the  
12 tourism special fund to provide funding  
13 for a safety and security budget, in  
14 accordance with the Hawaii tourism  
15 strategic plan 2005-2015; and

16 (C) Of the revenues remaining in the tourism  
17 special fund after revenues have been  
18 deposited as provided in this paragraph and  
19 except for any sum authorized by the  
20 legislature for expenditure from revenues  
21 subject to this paragraph, beginning July 1,  
22 2007, funds shall be deposited into the

\_\_\_\_.B. NO. \_\_\_\_\_

1                   tourism emergency special fund, established  
2                   in section 201B-10, in a manner sufficient  
3                   to maintain a fund balance of \$5,000,000 in  
4                   the tourism emergency special fund;

- 5           (4) \$103,000,000 for fiscal year 2014-2015,  
6               \$103,000,000 for fiscal year 2015-2016,  
7               \$103,000,000 for fiscal year 2016-2017, and  
8               \$93,000,000 for each fiscal year thereafter shall  
9               be allocated as follows: Kauai county shall  
10              receive 14.5 per cent, Hawaii county shall  
11              receive 18.6 per cent, city and county of  
12              Honolulu shall receive 44.1 per cent, and Maui  
13              county shall receive 22.8 per cent; provided that  
14              commencing with fiscal year 2018-2019, a sum that  
15              represents the difference between a county public  
16              employer's annual required contribution for the  
17              separate trust fund established under section  
18              87A-42 and the amount of the county public  
19              employer's contributions into that trust fund  
20              shall be retained by the state director of  
21              finance and deposited to the credit of the county  
22              public employer's annual required contribution

\_\_\_\_.B. NO. \_\_\_\_\_

1 into that trust fund in each fiscal year, as  
2 provided in section 87A-42, if the respective  
3 county fails to remit the total amount of the  
4 county's required annual contributions, as  
5 required under section 87A-43; and

6 (5) \$3,000,000 shall be allocated to the special land  
7 and development fund established under section  
8 171-19; provided that the allocation shall be  
9 expended in accordance with the Hawaii tourism  
10 authority strategic plan for:

11 (A) The protection, preservation, maintenance,  
12 and enhancement of natural resources,  
13 including beaches, important to the visitor  
14 industry;

15 (B) Planning, construction, and repair of  
16 facilities; and

17 (C) Operation and maintenance costs of public  
18 lands, including beaches, connected with  
19 enhancing the visitor experience.

20 All transient accommodations taxes shall be paid into  
21 the state treasury each month within ten days after collection

\_\_\_\_.B. NO. \_\_\_\_\_

1 and shall be kept by the state director of finance in special  
2 accounts for distribution as provided in this subsection.

3 As used in this subsection, "fiscal year" means the  
4 twelve-month period beginning on July 1 of a calendar year and  
5 ending on June 30 of the following calendar year.

6 (c) In addition to the taxes apportioned to the  
7 counties in subsection (b) (4), any TAT collected from transient  
8 accommodations remarketers or travel agencies shall be paid to  
9 the counties in the same percentage as set forth in subsection  
10 (b) (4).

11 [~~(e)~~] (d) On or before January or July 1 of each year  
12 or after the disposition of any tax appeal with respect to an  
13 assessment for periods after June 30, 1990, the state director  
14 of finance shall compute and pay the amount due as provided in  
15 subsection (b) to the director of finance of each county to  
16 become a general realization of the county expendable as such,  
17 except as otherwise provided by law."

18 SECTION 7. Section 237D-7, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§237D-7 Annual return. On or before the twentieth day of  
21 the fourth month following the close of the taxable year, every  
22 person who has become liable for the payment of the taxes under

\_\_\_\_.B. NO. \_\_\_\_\_

1 this chapter during the preceding tax year shall file a return  
2 summarizing that person's liability under this chapter for the  
3 year, in such form as the director prescribes. The [~~operator or~~  
4 ~~plan manager~~] taxpayer shall transmit with the return a  
5 remittance covering the residue of the tax chargeable to the  
6 [~~operator or plan manager~~] taxpayer, if any, to the office of  
7 the appropriate state district tax assessor designated in  
8 section 237D-8. The return shall be signed by the taxpayer, if  
9 made by an individual, or by the president, vice-president,  
10 secretary, or treasurer of a corporation, if made on behalf of a  
11 corporation. If made on behalf of a partnership, firm, society,  
12 unincorporated association, group, hui, joint adventure, joint  
13 stock company, corporation, trust estate, decedent's estate,  
14 trust, or other entity, any individual delegated by the entity  
15 shall sign the same on behalf of the taxpayer. If for any  
16 reason it is not practicable for the individual taxpayer to sign  
17 the return, it may be done by any duly authorized agent. The  
18 department, for good cause shown, may extend the time for making  
19 the return on the application of any taxpayer and grant such  
20 reasonable additional time within which to make the return as  
21 the department may deem advisable.

\_\_\_\_.B. NO. \_\_\_\_\_

1           Section 232-2 applies to the annual return, but not to a  
2 monthly return."

3           SECTION 8. Section 237D-9, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) If any [~~operator or plan manager~~] taxpayer fails to  
6 make a return as required by this chapter, the director shall  
7 make an estimate of the tax liability of the [~~operator or plan~~  
8 ~~manager~~] taxpayer from any information the director obtains, and  
9 according to the estimate so made, assess the taxes, interest,  
10 and penalty due the State from the [~~operator or plan manager~~]  
11 taxpayer, give notice of the assessment to the [~~operator or plan~~  
12 ~~manager~~] taxpayer, and make demand upon the [~~operator or plan~~  
13 ~~manager~~] taxpayer for payment. The assessment shall be presumed  
14 to be correct until and unless, upon an appeal duly taken as  
15 provided in section 237D-11, the contrary shall be clearly  
16 proved by the person assessed, and the burden of proof upon such  
17 appeal shall be upon the person assessed to disprove the  
18 correctness of assessment."

19           SECTION 9. Section 237D-10, Hawaii Revised Statutes, is  
20 amended to read as follows:

21           "**§237D-10 Overpayment; refunds.** Upon application by [an  
22 ~~operator or plan manager~~] a taxpayer, if the director determines

.B. NO.           

1 that any tax, interest, or penalty has been paid more than once,  
2 or has been erroneously or illegally collected or computed, the  
3 tax, interest, or penalty shall be credited by the director on  
4 any taxes then due from the [~~operator or plan manager~~] taxpayer  
5 under this chapter. The director shall refund the balance to  
6 the [~~operator or plan manager~~] taxpayer or the [~~operator's or~~  
7 ~~plan manager's~~] taxpayer's successors, administrators,  
8 executors, or assigns in accordance with section 231-23. No  
9 credit or refund shall be allowed for any tax imposed by this  
10 chapter, unless a claim for such credit or refund is filed as  
11 follows:

12           (1) If an annual return is timely filed, or is filed  
13               within three years after the date prescribed for  
14               filing the annual return, then the credit or  
15               refund shall be claimed within three years after  
16               the date the annual return was filed or the date  
17               prescribed for filing the annual return,  
18               whichever is later.

19           (2) If an annual return is not filed, or is filed  
20               more than three years after the date prescribed  
21               for filing the annual return, a claim for credit  
22               or refund shall be filed within:



- 1 (A) Three years after the payment of the tax; or
- 2 (B) Three years after the date prescribed for
- 3 the filing of the annual return, whichever
- 4 is later.

5 Paragraphs (1) and (2) are mutually exclusive. The  
6 preceding limitation shall not apply to a credit or refund  
7 pursuant to an appeal, provided for in section 237D-11.

8 As to all tax payments for which a refund or credit is  
9 not authorized by this section (including, without prejudice to  
10 the generality of the foregoing, cases of unconstitutionality),  
11 the remedies provided by appeal or by section 40-35 are  
12 exclusive."

13 SECTION 10. Section 237D-12, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§237D-12 **Records to be kept; examination.** Every  
16 [~~operator and plan manager~~] taxpayer shall keep in the English  
17 language within the State, and preserve for a period of three  
18 years, suitable records of gross rental, gross rental proceeds,  
19 or fair market rental value relating to the business taxed under  
20 this chapter, and such other books, records of account, and  
21 invoices as may be required by the department, and all such  
22 books, records, and invoices shall be open for examination at

\_\_\_\_.B. NO. \_\_\_\_\_

1 any time by the department or the Multistate Tax Commission  
2 pursuant to chapter 255, or the authorized representative  
3 thereof."

4 SECTION 11. Statutory material to be deleted is bracketed  
5 and in strike through. New statutory material is underscored.

6 SECTION 12. This Act shall take effect on July 1, 2018.

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INTRODUCED BY: \_\_\_\_\_

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