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LABOR  
Federation



CALIFORNIA  
ASSOCIATION of  
BOUTIQUE &  
BREAKFAST INNS



June 23, 2016

**TO:** Assembly Member Susan Talamantes Eggman, Chair  
Honorable Members, Assembly Local Government Committee

**FR:** Barry Broad, on behalf of UNITEHERE and  
California Teamsters Public Affairs Council  
Christy Bouma, on behalf of California Professional Firefighters  
John Caldwell on behalf of the California Hotel and Lodging Association and  
California Association of Boutique and Breakfast Inns  
Dan Carrigg, League of California Cities  
Sara Flocks, California Labor Federation, AFL-CIO  
Dorothy Holzem, California State Association of Counties  
Karen Lange, California Association of County Treasurers and Tax Collectors

**RE: Senate Bill 133 (McGuire) – Transient occupancy taxes: hosting platforms: collection.  
Oppose - As amended June 21, 2016**

On behalf of the above named groups, we write to notify you of our respectful opposition to Senate Bill 133 by Senator McGuire.

SB 133 is based on SB 1102 by the same author that would create an optional statewide program related to the collection of transient occupancy tax (TOT) for units offered by online short-term rental platforms. SB 1102, however, was held in Senate Appropriations Committee last month and while we appreciate the author’s effort to try to address the concerns through the new vehicle we must regretfully remain opposed. The urgency behind the measure is unfounded and we believe a more deliberate approach is called for to ensure the appropriate solution, if one is needed, is in place.

Unfortunately, SB 133 contains too many unresolved issues surrounding the collection and payment of TOT by short-term rental platforms such as Airbnb, HomeAway (VRBO) and Flipkey. While the stated intent of SB 133 is to help improve TOT collection, local agencies have fundamental concerns with this model because it would shield platforms from disclosing to local entities basic transaction information necessary to verify that the appropriate amount had been paid. The State Controller’s Office would instead be granted authority to “review” or audit such data with a lack of sufficient detail to ensure local ordinances are being complied with. Under the current drafting, there would even be limitations for those agencies that choose to rely on their established local authority and not participate in the statewide program.

Cities and counties today can, and do, enforce existing TOT on units offered by short-term rental platforms. In addition, cities and counties have established specific agreements with the online rental platforms based on the unique needs of each jurisdiction and more are under consideration today. Progress is being made at the local

level. However, SB 133 could close the door on the enforcement of other important local laws that regulate short-term rentals for health and safety purposes. That's because under the terms of SB 133, information regarding the short-term rental properties would be hidden from the cities or counties where they are located and expressly prohibit that information from being accessed by local agencies.

There are other revenue implications in this measure as well. First and foremost, it lacks a critical definition of "residential unit" made available through a platform. This creates confusion for TOT collection by other types of lodging (such as hotels and motels) and has already been a source of previous litigation. In addition, SB 133 solely provides for TOT collection but does not include other fees and assessments generally collected at the local level, such as business and tourism improvement district assessments and various convention center expansion fees, among others. Under SB 133, cities and counties would not be able to collect these fees, because again, all the information would be intentionally hidden from the cities and counties.

We appreciate the author's past efforts to help cities and counties collect additional TOT in this emerging area of our economy. Our associations did support the more flexible approach of last year's SB 593 (McGuire), which unfortunately stalled. However, we regret to convey that SB 133 would create more concern than relief for local agencies. The proposed model is simply not workable. For this reason, we must respectfully ask for a NO vote on SB 133.

Cc: Honorable Mike McGuire, California State Senate  
Debbie Michel, Chief Consultant, Assembly Local Government Committee  
William Weber, Consultant, Assembly Republican Caucus