

Approved: 2-20-96
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:06 a.m. on February 7, 1996 in Room 519-S of the Capitol.

All members were present except: Rep. Clyde Graeber
Rep. Eugene Shore
Rep. Clay Aurand

Committee staff present: Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Kevin Robertson, Kansas Lodging Assn
Bruce Brown, Inn at Tall Grass, Wichita
Ted Kenney, Senate Suites, Topeka
Dick Merkel, INNCO Hospitality, Overland Park
Cathy Bennett, Lenexa Convention & Visitors Bureau

Others attending: See attached list

Chair opened hearing on:

HB 2672 - Hotel defined for sales and transient guest tax purposes

Proponents:

Kevin Robertson, Kansas Lodging Assn (Attachment 1)
Bruce Brown, Inn at Tall Grass, Wichita (Attachment 2)
Ted Kenney, Senate Suites, Topeka
Dick Merkel, INNCO Hospitality, Overland Park (Attachment 3)
Cathy Bennett, Lenexa Convention & Visitors Bureau (Attachment 4)

Chair closed hearing on **HB 2672.**

Moved by Rep. Larkin, seconded by Rep. Hayzlett, minutes of the meetings held on January 31, 1996, February 1, 1996 and February 6, 1996 be approved. Motion carried.

The next meeting is scheduled for February 8, 1996.

Adjournment 9:56 a.m.

Attachments - 4



Date: February 7, 1996

To: House Committee on Taxation

From: Kevin Robertson
Executive Director

RE: Testimony in **Support** of HB 2672

Chairman Kline and members of the Committee, thank you for the opportunity to appear before you today. I am Kevin Robertson, executive director of the Kansas Lodging Association comprised of approximately 140 hotels and motels statewide.

Today I am here, along with hotel operators from three of the largest communities in our state to ask for your assistance solving a problem that we believe exists with the definition of "hotels" in Kansas. The problem is that hotel room brokers or temporary corporate lodging companies are renting rooms to guests for short-term stays (transient guests) without being required to collect sales and transient taxes from these guests. We believe the obvious and simple solution to this problem is to amend the definition of "hotel" in KSA 12-1692, 12-1696, and 79-3603.

In recent years hotel room brokers or temporary corporate lodging companies have set up businesses in the larger cities of our state. They operate similarly to hotels, however, they do not quite fit the definition of "hotel" as found in statute. Therefore, they operate without being licensed, do not collect or remit taxes, pay a lesser rate on real property taxes, and are not required to meet the same fire, ADA, and other codes that are prescribed by federal, state and local governments for hotels. HB 2672 is an effort to correct only the sales and transient guest tax issues of this larger problem.

These businesses typically operate by contracting with various apartment complexes or even residential homes throughout an area. This is done by either leasing apartments or by agreement that any guests brokered through the hotel room broker will be provided an apartment at the complex if available. By making such arrangements, it is estimated that one specific broker, Suite Options, has an inventory of 60 to 100 "hotel" rooms available in both Kansas City and Wichita. When a prospective guest calls the broker for a room, one of their inventory of apartments throughout the city is provided to the guest.

Members of the Committee, it is not the Kansas Lodging Association's intention to run innovative businesses like Suite Options out of business, we do strongly believe however, these businesses should compete by the same rules and pay the same taxes as do licensed hotels in the state. You are all familiar with the phrases, "if it looks like a duck, quack like a duck and walks like a duck, it's a duck" and "a rose by any other name...!" Attached you will find a yellow page ad, promotional brochure, and a flier from two of

House Taxation
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Attachment 1-1



these temporary corporate lodging companies doing business in Kansas. In their ads and promotional information they themselves state over and over that they compete with hotels. Temporary corporate lodging is nothing more than a fancy name for "hotel."

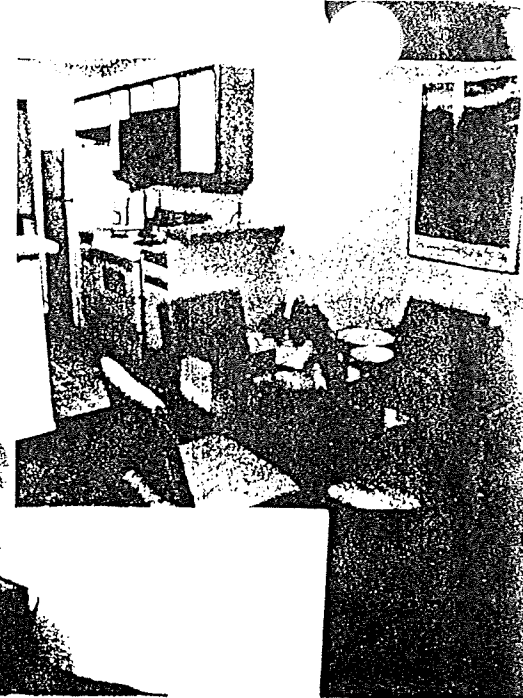
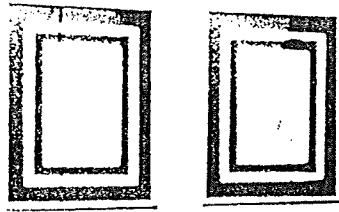
In 1992, Suite Options was quoted in a Kansas City area newspaper as having monthly revenue around \$80,000. This number represents the taxable revenues that did not find their way to Kansas City area hotels per month. By the way, using the current sales and transient guest tax rates this translates into \$3,920 in lost state revenue from state sales tax, \$1,200 in lost revenue from the local sales tax, and \$3,200 in lost revenue from transient guest tax every month!

The history of this issue began prior to the 1993 Session as I and other representatives of the lodging industry met with then Secretary of Revenue Nancy Parrish and Director of Taxation Steve Stotts. At that meeting we made KDOR aware of this type temporary corporate lodging operations and asked KDOR to pursue taxing those companies with the practice of renting rooms to transient guests. We were told by KDOR at that time that the definition of "hotel" was such that it did not include operations like Suite Options. As a result, during the 1993 Session the lodging industry approached the legislature to make changes in the definition. The proposed amendments contained in 1993 HB 2163 were more substantial and confusing than those being proposed today in HB 2672. At that time, Rep. Susan Wagle was appointed to Chair a subcommittee on this issue, and she became convinced that changes were indeed necessary. The Division of Taxation recommended changes in the definition of "hotel" to include hotel room brokers/temporary corporate lodging in 1993, and, HB 2672 contains many of those suggested changes.

As I close my comments today, I want to make it clear that HB 2672 does not change any law regarding the operation of any hotel licensed in Kansas. The passage of HB 2672 would simply require hotel room brokers and/or temporary corporate lodging companies to abide by the same tax rules that are required of hotels.

On behalf of the Kansas Lodging Association, I urge you to support HB 2672. I will be happy to answer any question you may have at this time.

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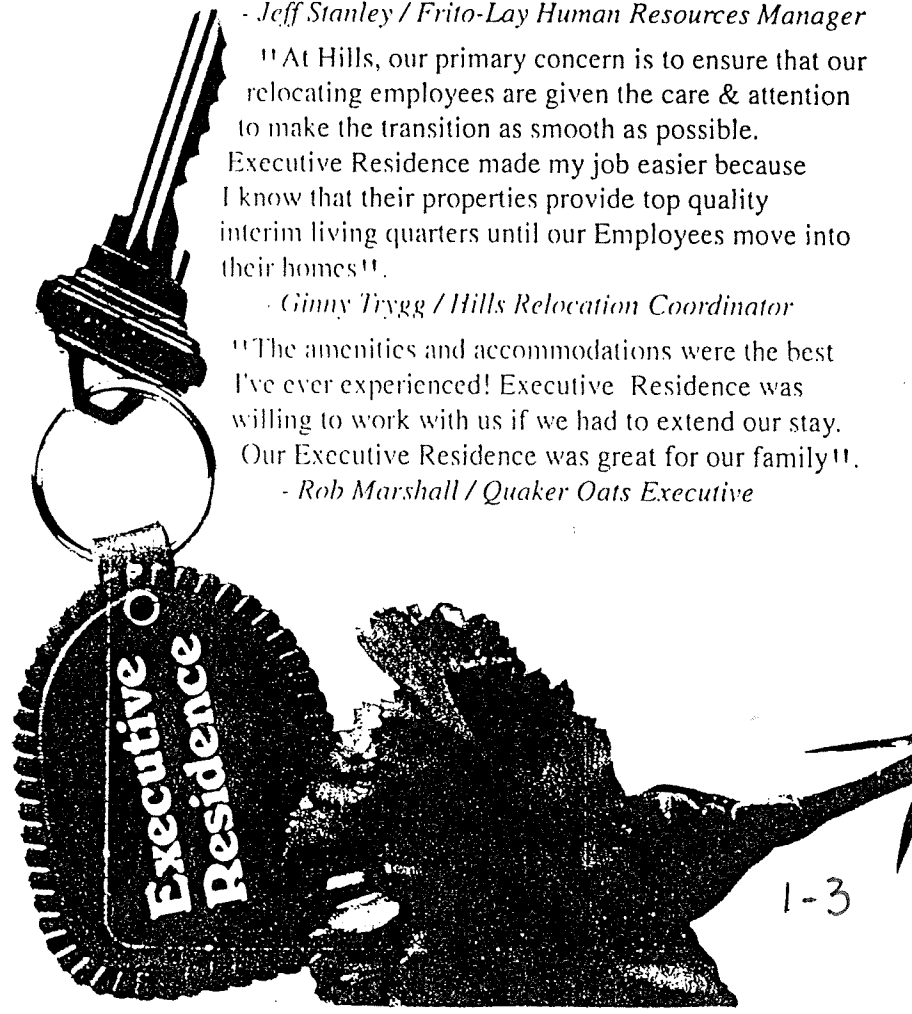
- Jeff Stanley / Frito-Lay Human Resources Manager

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- Ginny Trygg / Hills Relocation Coordinator

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- Rob Marshall / Quaker Oats Executive



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Suite Options-----263-2600
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The Inn At Tallgrass 2280 N Tara -----684-3466

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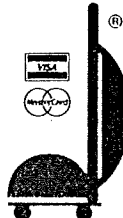
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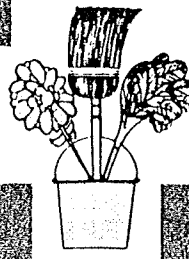
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5. Dust Mop Hard Surface Floors
6. Remove Cobwebs
7. Dust Sills & Ledges
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12. Disinfect Bathroom Fixtures
13. Wash Bathroom Floors
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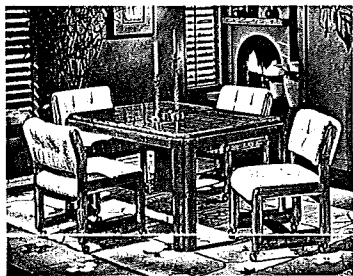
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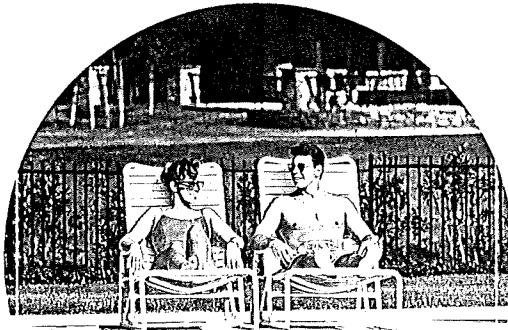
Because the living needs of each person differ, we have a series of Suite Options from which to choose. That makes it easy to tailor each suite to the particular person. All suites are one or two bedroom, but more bedrooms are available as an option. Weekly maid service is provided with most suites. And, of course, if you have special requirements, we'll work with you to ensure your apartment is as close to home as we can make it.



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- FAX machines
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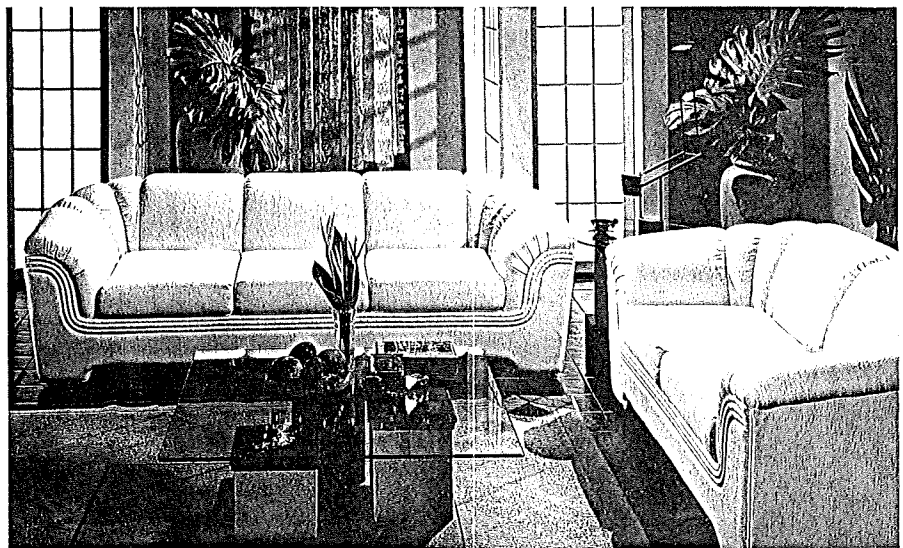
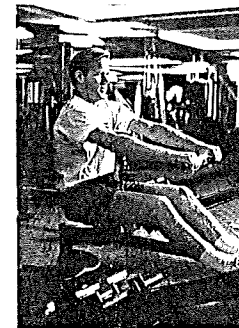


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Prices are determined by the location of the suite, number of bedrooms, package amenities, additions or special services, and the length of your stay.

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Our Economy Suite Includes: Our good furniture package

- Sofa
- Chair
- Cocktail table
- End tables
- Lamps
- 19" remote color TV
- Dining table & 4 chairs
- Microwave
- Deluxe kitchenware
- Telephone
- Poly-down queen bed
- Dresser/mirror
- Nightstand
- Bed and bath linens and towels
- Clock radio
- Pictures
- Security alarm
- Answering machine

THE VICE PRESIDENTY SUITE

Our Signature Suite Includes: Our better furniture package

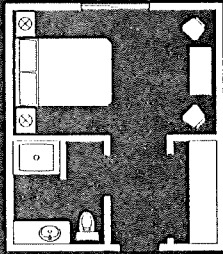
- Sofa
- Loveseat
- Cocktail table
- End tables
- Lamps
- 19" remote color TV
- VCR
- Dining table & 4 chairs
- Microwave
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- Loveseat
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- Lamps
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- VCR
- Stereo system
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- Poly-down king bed
- Dresser/mirror
- Nightstands
- Bed and bath linens and towels
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- Pictures
- Deluxe home accessories package
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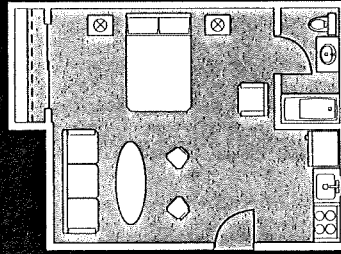


\$95.00 a night

280 sq. ft.

A HOTEL IS

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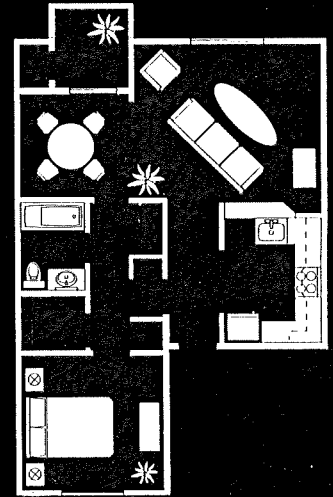


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meant simply for sleeping. ~ A home

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Now, if work or circumstances take you

from home for a week, a month, or longer,

you have an alternative to returning every

night to a cold, impersonal hotel room.

Now you can come home to suite options.

to matter what you do to make



INTRODUCTION

Bruce Brown
Owner/Operator
The Inn at Tallgrass
2280 N. Tara
Wichita, Kansas 67226

BACKGROUND

I wanted to bring a situation to your attention that, in all fairness, needs to be addressed. The Inn at Tallgrass is a limited service, all-suite, extended-stay hotel. It consists of furnished one and two bedroom suites with living rooms, fully-equipped kitchens, fireplaces, and balconies. Our business is renting hotel rooms primarily to the corporate business traveler on a semi-permanent basis. Our rates are set at one price for stays from one to six nights and discounted for stays of seven nights or longer.

Before 1992, sales tax was collected from "transient" hotel guests who stayed for less than 28 days while hotel guests who stayed for more than 28 days were exempt from sales tax. The passage of the Retail Sales Tax Act in 1992 erased that distinction and hotel guests now pay sales tax despite the length of stay.

PROBLEM

Some brokers have made arrangements with apartment complexes to rent apartment units for the purpose of re-renting them as furnished or non-furnished "corporate apartments." They then rent them to an end user, either an individual or a company, for an open-ended length of stay.

By omission, an area has developed where these operators can rent out apartments on a short term basis without having to assess the transient guest tax and the sales tax. The situation exists that a hotel, when it rents a room to a business traveler, is required to collect the transient guest tax. If the guest would stay over 28 days, the hotel is required to collect the sales tax. A broker, when it rents a room to the same business traveler, is not required to collect the transient guest tax. If their guest would stay over 28 days, the broker is not required to collect the sales tax. They are the same type of guest in two different locations. If they stay at the hotel, they pay the transient guest tax and the sales tax while, if they stay at the brokered apartment, they don't.

Suite Options is one of these broker businesses and advertises as such. According to an article in the Wichita Business Journal, Suite Options leases 60 units in a half-dozen Wichita apartment complexes. Their own advertising and sales literature features "No Leases," "Short or Long Term," and that they rent for "A Week, a Month, or a Year." Additionally, they advertise themselves as "The Great Hotel Alternative."

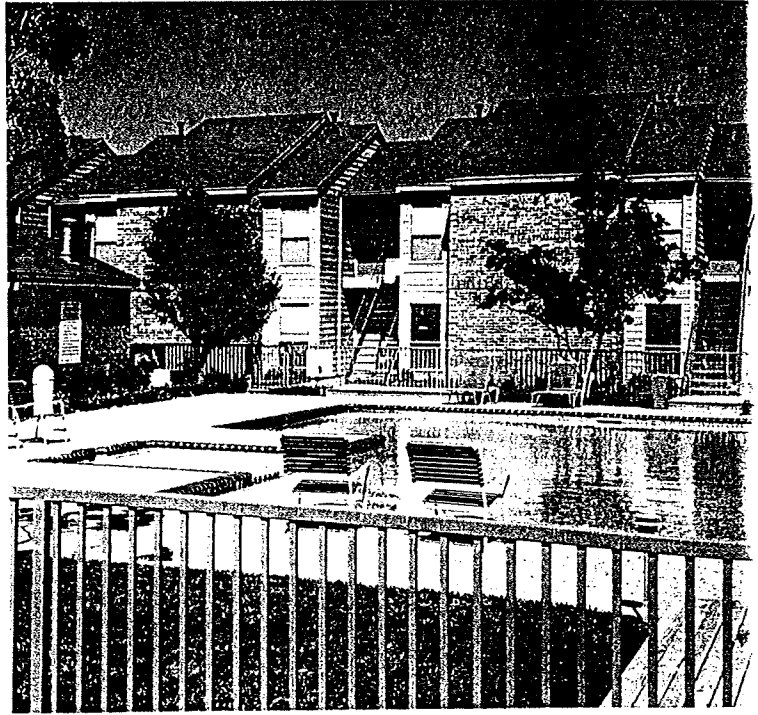
CONCLUSION

It is clear to me that all transient guests living in hotels are supposed to pay the transient guest tax and the sales tax. It is equally clear that transient guests living in apartments do not. This situation seems quite unfair. I would like to see the appropriate legislative changes made where the two compete on a more level playing field.

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- Short or Long Term
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Great Suites at great prices, right where you want them!



The Great Hotel Alternative

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Suite Options offers you the luxury options you want.

- "Poly-Down" Beds
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- Answering Machine
- Washer/Dryer
- Microwave, VCR, Stereo

More Value

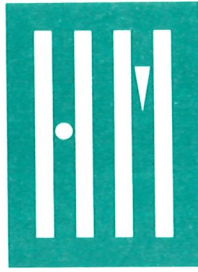
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SUITE
OPTIONS



February 7, 1996

TO: Members of the House Taxation Committee

FM: Dick Merkel, Vice President of the Board of Directors
The Hotel and Motel Association of Greater Kansas City

RE: House Bill 2672

Good morning. I am Dick Merkel, representing the Hotel and Motel Association of Greater Kansas City. I am a resident of Johnson County, living at 13020 Alhambra, Leawood, Kansas 66209, and Senior Vice President of Clubhouse Inn and INNCO Properties, located in Johnson County, who currently operate 17 hotel and motel properties, including the Clubhouse Inn Overland Park, 10610 Marty, Overland Park, KS 66212; The Topeka Clubhouse Inn, 924 S. W. Henderson, Topeka, Kansas 66615; the Wichita Clubhouse Inn, 515 S. Webb Road, Wichita, Kansas 67207; and the Wichita Airport Hilton, 2098 Airport Road, Wichita, Kansas 67209. I am here today to speak in support of House Bill 2672.

Several of facilities specialize in long-term stays. Our hotels offer to our guests not only standard sleeping rooms but also extended stay suites, which include kitchen facilities.

What makes us different from apartment complexes that rent rooms to transient guests is that we pay taxes, both sales tax and transient guest tax, on the income generated.

House Bill 2672 redefines hotel, motel, or tourist court to include all properties renting rooms to transient guests. This redefinition requires apartment complexes and similar properties to pay sales tax and transient guest tax, just as hotels, motels, and tourist courts in Kansas currently do.

House Taxation
2-7-96
Attachment 3-1

HOTEL AND MOTEL ASSOCIATION OF GREATER KANSAS CITY, INC.

KANSAS CITY CLUB, SUITE 718
1228 BALTIMORE
KANSAS CITY, MO 64105
816 - 421 - 2072
FAX 816 - 421 - 6117

The lodging industry is a very competitive industry. When an apartment can save a guest over 10% of the cost by not paying taxes, the apartment has an unfair advantage. We urge you to correct this loophole in the law by redefining hotels and thus collecting taxes from all properties who are renting to transient guests.

I urge that you report House Bill 2672 out of committee with a favorable vote, and bring it before the full House of Representatives for consideration and final passage.

Thank you for your time. I would be happy to answer any questions you may have.

Hotels - (Cont'd)

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RESIDENCE INN BY MARRIOTT
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Midwest Hotel 1925 Main-----471-0311
Omni Kansas City Hotel 1301 Wyandotte---474-6664

OZ ACCOMMODATIONS

Minimum 30 Day Stay
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★SEE DISPLAY AD Page 665

Paradise Motel 81st & Prospect-----523-7992

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★SEE DISPLAY AD Page 665

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★SEE DISPLAY AD Page 664

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February 7, 1996

TO: House Committee on Taxation

FROM: Cathy K. Bennett, Director, Lenexa Convention and Visitors Bureau

RE: Recommendation of House Bill 2672

My name is Cathy Bennett and I am Director of the Lenexa Convention and Visitors Bureau. The Lenexa Bureau serves and is served by six motels representing approximately 900 sleeping rooms in Lenexa.

These six facilities hold themselves out to the public to be motels, hotels or "tourist courts" and subscribe to the sales and transient guest tax collections and remissions required of Kansas motels. These facilities rent rooms for short-term stays and collect and remit transient guest tax on all rooms rented for 28 or fewer nights. These six Lenexa facilities collect and remit sales tax on all roomnights rented for 28 or fewer nights.

However, now in Lenexa there are five other companies which rent rooms to the public for short-term stays. These five other companies call themselves "temporary corporate lodging" agencies and advertise their product under the "hotel" heading in the yellow pages. Some even post advertising fliers in area public facilities promoting "short-term specials". Because these companies are "rental agencies" which contract for an inventory of furnished apartments at one or several local apartment complexes and then lease these apartments to the public for temporary stays, these companies currently are not recognized as hotels, motels or tourist courts and are not required to collect and remit transient guest tax or sales tax for the roomnights they lease. Neither the agency, which leases the short term stay to the public, nor the apartment facilities themselves collect sales tax or transient guest tax on these temporary stays.

These temporary lodging agencies position their product like a hotel (short term stays), advertise like a hotel (in the yellow pages) and go after the same markets as my hotels. Yet, my hotels and motels pay sales tax and transient guest tax on every short term stay they lease and these temporary lodging agencies do not. Under current Kansas law, they do not have to collect sales tax or transient guest tax.

House Bill 2672 would change the definitions of what is a hotel or motel to include operations which maintain and lease two or more units for temporary stays. A temporary stay is defined as 28 or fewer consecutive nights. We need this new language to make the game rules the same for all of the players.

Attached you will find copies of an article from the Kansas City Business Journal dated November 20, 1992, a copy of a promotional flier for one temporary corporate lodging operation and copies of two pages from the Yellow Pages heading "Hotels" with ads for these temporary corporate lodging operations. The flier advertises a temporary apartment package for a stay as short as five days. The article describes three temporary apartment lodging operations in the Johnson county area. Upon reading

this article, you will find the service the writer is describing as provided by the temporary lodging agencies, is that of a hotel leasing a room to a business professional for two or three weeks. According to this article one of the temporary apartment lodging firms has contracts with more than 40 apartment complexes in the Kansas City area.

Page Two
Lenexa Convention and Visitors Bureau
Testimony of HB 2672

We certainly do not want these apartment complexes and temporary lodging marketing firms to cease their temporary leasing operations. We just want these operations to play by the same rules our hotels and motels are subject to.

Current statutes define a hotel or motel as a "building or structure" which contains two or more rooms furnished for the purpose of providing lodging which are sought for pay by transient or permanent guests. By leasing one to two units in several different buildings for temporary stays, these temporary lodging marketing operations can offer four or more furnished rooms without collecting transient guest tax or sales tax. The amended language in House Bill 2672 clarifies that as long as the facility has two or more units at any location in the complex furnished for such temporary use, it will fall under the hotel/motel definition. It also clarifies that a hotel or motel is any structure, building, or group of buildings which promotes itself to the public as a place for temporary sleeping accommodations, regardless of whether the facility is designated as an apartment, hotel, cabin camp, bed and breakfast... Thus, the amended language would bring firms like Suite Options, Oz Accommodations, Accommodations by Apple, Oakwood and other temporary lodging agencies under the same transient guest tax and sales tax collection requirements that our hotels are currently subject to.

Our requests are pretty simple. If it looks like a hotel, operates like a hotel (with short-term stays), and promotes itself like a hotel; it should be called a hotel and be subject to the sales tax and transient guest tax collection requirements of a hotel. The amended definitions set forth in House Bill 2672 are needed to bring apartment complexes and temporary lodging marketing firms under the same game rules that our hotels and motels currently operate by.

I respectfully request that you recommend House Bill 2672 favorable for passage. Thank you.

Cathy K. Bennett
Lenexa Convention and Visitors Bureau
913/888-1414
February 7, 1996

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