
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. The legislature finds that the State needs a
2 better reporting system with respect to transient accommodations
3 tax revenues collected from residential properties. Better
4 reporting will enable the State to provide a more comprehensive
5 tax system that is more equitable and cost-effective. In
6 addition, better enforcement is needed to ensure that owners of
7 transient vacation rentals and bed and breakfast establishments
8 comply with the transient accommodations tax law.

9 The purpose of this Act is to, among other things:

10 (1) Require the department of taxation to coordinate with
11 the Hawaii tourism authority and each respective
12 county to identify owners of residential properties
13 subject to the transient accommodations tax who
14 operate transient vacation rentals -- where the owner
15 does not reside on the property -- and bed and
16 breakfast establishments -- where the owner resides on
17 the property;



- 1 (2) Allow the department of taxation to coordinate with
2 the Hawaii tourism authority and each respective
3 county to conduct audits of the owners of residential
4 properties who operate transient vacation rentals and
5 bed and breakfast establishments and take other
6 administrative and enforcement actions necessary to
7 ensure compliance with applicable statutes, rules, and
8 ordinances relating to the transient accommodations
9 tax;
- 10 (3) Require the counties and the Hawaii tourism authority
11 to share certain transient accommodations information
12 with the department of taxation;
- 13 (4) Require the department of taxation to share transient
14 accommodations tax location information with the
15 counties;
- 16 (5) Require the department of taxation to report annually
17 to the legislature on:
- 18 (A) Transient accommodations tax revenues received
19 from owners of residential properties who operate
20 transient vacation rentals and bed and breakfast
21 establishments; and



1 (B) The estimated amount of general excise tax and
2 transient accommodations tax revenues that are
3 uncollected, and therefore lost, due to the lack
4 of county enforcement;

5 (6) Require the department of taxation to review the forms
6 and process relating to the collection of the
7 transient accommodations tax from transient vacation
8 rentals and bed and breakfast establishments and
9 submit a report on the results of the review to the
10 legislature at least twenty days prior to the regular
11 session of 2010; provided that the report also
12 contains recommendations on the appropriate funding
13 mechanism, to include consideration of revenue
14 collected from the transient accommodations tax, to
15 reimburse counties for the costs associated with
16 implementing this Act; and

17 (7) Appropriate funds to the department of taxation for
18 additional investigations.

19 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§237D- **Transient vacation rentals and bed and**
2 **breakfast establishments; enforcement; reporting.** (a) The
3 department shall coordinate with the Hawaii tourism authority
4 and each county to identify owners of residential properties
5 subject to this chapter who operate:

6 (1) Transient vacation rentals or bed and breakfast
7 establishments when the owner does not reside on the
8 property; and

9 (2) Transient vacation rentals or bed and breakfast
10 establishments, when the owner resides on the
11 property.

12 (b) The department may coordinate with the Hawaii tourism
13 authority and each county to conduct general excise and income
14 tax audits of the owners of residential property subject to this
15 chapter who operate transient vacation rentals or bed and
16 breakfast establishments and take other administrative and
17 enforcement actions necessary to ensure compliance with
18 applicable statutes, rules, ordinances, and this chapter.

19 (c) The counties and the Hawaii tourism authority shall
20 share with the department known locations of transient vacation
21 rentals or bed and breakfast establishments subject to the tax
22 imposed under this chapter.



1 (d) The department shall provide to the counties the
2 location of transient vacation rentals or bed and breakfast
3 establishments subject to the tax imposed under this chapter;
4 provided that the department shall not release any information
5 regarding the specific amount of taxes collected under this
6 chapter.

7 (e) The department shall report annually to the
8 legislature on:

9 (1) Tax revenues received under this chapter from owners
10 of residential properties subject to this chapter who
11 operate transient vacation rentals or bed and
12 breakfast establishments, or both; and

13 (2) The estimated amount of general excise tax and
14 transient accommodations tax revenues that are
15 uncollected due to the lack of county enforcement.

16 (f) For the purposes of this section, the counties shall
17 establish criteria:

18 (1) To identify transient vacation rentals and bed and
19 breakfast establishments; and

20 (2) For control over transient vacation rentals and bed
21 and breakfast establishments.



1 (g) For the purpose of this section, "transient vacation
2 rental" or "bed and breakfast establishment" means short term
3 rental businesses that are located in residential neighborhoods
4 that qualify as a transient accommodation."

5 SECTION 3. Section 201B-3, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Except as otherwise limited by this chapter, the
8 authority may:

9 (1) Sue and be sued;

10 (2) Have a seal and alter the same at pleasure;

11 (3) Make and execute contracts and all other instruments
12 necessary or convenient for the exercise of its powers
13 and functions under this chapter; provided that the
14 authority may enter into contracts and agreements for
15 a period of up to five years, subject to the
16 availability of funds; and provided further that the
17 authority may enter into agreements for the use of the
18 convention center facility for a period of up to ten
19 years;

20 (4) Make and alter bylaws for its organization and
21 internal management;



- 1 (5) Unless otherwise provided in this chapter, adopt rules
2 in accordance with chapter 91 with respect to its
3 projects, operations, properties, and facilities;
- 4 (6) Through its executive director represent the authority
5 in communications with the governor and the
6 legislature;
- 7 (7) Through its executive director, provide for the
8 appointment of officers, agents, and employees,
9 subject to the approval of the board, prescribing
10 their duties and qualifications, and fixing their
11 salaries, without regard to chapters 76 and 78, if
12 there is no anticipated revenue shortfall in the
13 tourism special fund and funds have been appropriated
14 by the legislature and allotted as provided by law;
- 15 (8) Through its executive director purchase supplies,
16 equipment, or furniture;
- 17 (9) Through its executive director allocate the space or
18 spaces that are to be occupied by the authority and
19 appropriate staff;
- 20 (10) Engage the services of qualified persons to implement
21 the State's tourism marketing plan or portions thereof
22 as determined by the authority;



- 1 (11) Engage the services of consultants on a contractual
2 basis for rendering professional and technical
3 assistance and advice;
- 4 (12) Procure insurance against any loss in connection with
5 its property and other assets and operations in
6 amounts and from insurers as it deems desirable;
- 7 (13) Contract for or accept revenues, compensation,
8 proceeds, and gifts or grants in any form from any
9 public agency or any other source, including any
10 revenues or proceeds arising from the operation or use
11 of the convention center;
- 12 (14) Develop, coordinate, and implement state policies and
13 directions for tourism and related activities taking
14 into account the economic, social, and physical
15 impacts of tourism on the State and its natural
16 resources infrastructure; provided that the authority
17 shall support the efforts of other state and county
18 departments or agencies to manage, improve, and
19 protect Hawaii's natural environment and areas
20 frequented by visitors;
- 21 (15) Have a permanent, strong focus on marketing and
22 promotion;



- 1 (16) Conduct market development-related research as
2 necessary;
- 3 (17) Coordinate all agencies and advise the private sector
4 in the development of tourism-related activities and
5 resources;
- 6 (18) Work to eliminate or reduce barriers to travel in
7 order to provide a positive and competitive business
8 environment, including coordinating with the
9 department of transportation on issues affecting
10 airlines and air route development;
- 11 (19) Market and promote sports-related activities and
12 events;
- 13 (20) Coordinate the development of new products with the
14 counties and other persons in the public sector and
15 private sector, including the development of sports,
16 culture, health and wellness, education, technology,
17 agriculture, and nature tourism;
- 18 (21) Establish a public information and educational program
19 to inform the public of tourism and tourism-related
20 problems;
- 21 (22) Encourage the development of tourism educational,
22 training, and career counseling programs;



- 1 (23) Establish a program to monitor, investigate, and
2 respond to complaints about problems resulting
3 directly or indirectly from the tourism industry and
4 ~~[taking]~~ take appropriate action as necessary~~[+]~~,
5 including but not limited to coordination with the
6 department of taxation pursuant to section 237D- ;
7 (24) Develop and implement emergency measures to respond to
8 any adverse effects on the tourism industry, pursuant
9 to section 201B-9;
10 (25) Set and collect rents, fees, charges, or other
11 payments for the lease, use, occupancy, or disposition
12 of the convention center facility without regard to
13 chapter 91;
14 (26) Notwithstanding chapter 171, acquire, lease as lessee
15 or lessor, own, rent, hold, and dispose of the
16 convention center facility in the exercise of its
17 powers and the performance of its duties under this
18 chapter; and
19 (27) Acquire by purchase, lease, or otherwise, and develop,
20 construct, operate, own, manage, repair, reconstruct,
21 enlarge, or otherwise effectuate, either directly or
22 through developers, a convention center facility."



1 SECTION 4. The department of taxation shall review the
2 forms and processes for the collection of the transient
3 accommodations tax and include separate categories of collection
4 for residential properties used as transient vacation rentals
5 and bed and breakfast establishments.

6 The department of taxation shall report the results of its
7 review and any findings and recommendations, including any
8 proposed state and county enforcement and compliance
9 initiatives, to the legislature at least twenty days prior to
10 the convening of the regular session of 2010. In its report,
11 the department of taxation shall also submit recommendations on
12 the appropriate funding mechanism, to include consideration of
13 use of revenue collected from the transient accommodations tax,
14 to reimburse counties for the costs associated with implementing
15 this Act.

16 SECTION 5. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2009-2010 for
19 additional investigation of undocumented transient vacation
20 rentals and bed and breakfast establishments, in coordination
21 with the counties and the Hawaii tourism authority.



1 The sum appropriated shall be expended by the department of
2 taxation for the purposes of this Act.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2009.

6

INTRODUCED BY: _____



JAN 28 2009



Report Title:

TAT; Vacation Rentals; Bed and Breakfasts

Description:

Requires the DOTAX to coordinate with the Hawaii tourism authority and each county to identify property owners subject to the transient accommodations tax who operate transient vacation rentals and bed and breakfast establishments. Allows audits of these owners and other enforcement actions to ensure compliance with applicable laws relating to the transient accommodations tax. Requires the counties to share transient accommodations information with DOTAX. Requires DOTAX to provide annual reports, including providing information on the estimated amount of general excise tax and transient accommodations tax revenue that is uncollected due to the lack of county enforcement.

