

JAN 28 2009

S.B. NO. 1273

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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           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.

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INTRODUCED BY: Clarence B. Friskhorst



**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.

