
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that although many owners
2 of transient accommodations operate in compliance with
3 applicable state and county laws, there are a sizeable number of
4 owners who do not. Failure to comply denies the State and
5 counties of the transient accommodations taxes and general
6 excise taxes they are due.

7 The legislature further finds that section 521-43(f),
8 Hawaii Revised Statutes, as part of the landlord-tenant code,
9 requires an owner who lives without the State or on a different
10 island to designate an agent who resides on the same island
11 where the rental unit is located to act in the owner's behalf.

12 Section 521-7, Hawaii Revised Statutes, also clearly states
13 that the only exemption from the landlord-tenant code for
14 transient rentals is transient occupancy on a day-to-day basis
15 in a hotel or motel. Since all other transient accommodations
16 are subject to the requirements of the landlord-tenant code,
17 owners of transient accommodations who live without the State or
18 on a different island are already required by law to designate



1 an on-island agent to act on their behalf. This Act is intended
2 to clarify that this requirement applies to all owners of
3 transient accommodations who live without the State or on a
4 different island.

5 The legislature also finds that the landlord-tenant code
6 focuses on consumer protection. Requiring owners who live on a
7 different island from their transient accommodation property or
8 out of state to designate an agent is an important aspect of
9 consumer protection. A designated agent located on the same
10 island as the transient accommodation is essential in the case
11 of an emergency or natural disaster. An on-island agent is also
12 vital if any questions, concerns, or property issues arise
13 regarding the transient accommodation.

14 The legislature also finds that requiring community,
15 condominium, and other similar associations to provide relevant
16 information to the department of taxation on all owners who may
17 be leasing their property as a transient accommodation will help
18 ensure compliance with appropriate state and county tax laws.
19 Requiring the counties to provide the department of taxation
20 with relevant information about owners of real property
21 operating as transient accommodations will permit additional
22 enforcement of relevant state and county tax laws.



1 Accordingly, the purpose of this Act is to foster consumer
2 protection in the State's transient accommodations market and
3 ensure greater compliance with applicable state and county laws
4 by owners who operate transient accommodations in the State.

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

8 "§237D- Designated agent; relevant information;
9 advertisements; transient accommodations. (a) Any owner who
10 resides without the State or on another island from where the
11 transient accommodation is located shall designate an agent
12 residing on the same island where the transient accommodation is
13 located, as required pursuant to subsection 521-43(f).

14 For purposes of this section, the agent shall be an
15 individual who, for compensation or valuable consideration, is:

- 16 (1) Employed as an employee by a single owner and has the
17 responsibility to manage or care for the transient
18 accommodation left in the individual's trust;
19 (2) Able to serve as a local point of contact for the
20 transient accommodation; and



1 (3) Able to respond to any issues or concerns relating to
2 the transient accommodation, including in the case of
3 an emergency or natural disaster;
4 provided that the designated agent shall not include any
5 individual who is designated as an agent for more than a single
6 owner; provided further that a single owner shall not include an
7 association of owners of a condominium, cooperative, or planned
8 unit development.

9 A designated agent under this section shall not perform the
10 duties of a real estate broker or real estate salesperson
11 without being licensed pursuant to chapter 467.

12 (b) The owner shall furnish the name, address, and contact
13 information of the designated agent to any association of
14 homeowners, community association, condominium association,
15 cooperative, or any other nongovernmental entity with covenants,
16 bylaws, and administrative provisions with which the owner's
17 compliance is required. The owner shall notify and provide
18 updated information to that association or nongovernmental
19 entity within sixty calendar days of any change in the name,
20 address, and contact information of the designated agent.

21 Any person or entity who wilfully fails to supply
22 information required under this subsection shall be subject to



1 the penalties under section 231-35; provided that a person or
2 entity shall not be subject to any term of imprisonment or
3 probation under section 231-35.

4 (c) Any nongovernmental entity with covenants, bylaws, and
5 administrative provisions which is formed pursuant to chapter
6 514A, 514B, or 421J, or is registered as a condominium hotel
7 operator pursuant to section 467-30, shall provide the
8 department with all relevant information related to all owners
9 who may be leasing their property as transient accommodations by
10 December 31 of each year, or within sixty calendar days of any
11 change in the relevant information or ownership of the transient
12 accommodation. Any person or entity who wilfully fails to
13 supply information required under this subsection shall be
14 subject to the penalties under section 231-35; provided that a
15 person or entity shall not be subject to any term of
16 imprisonment or probation under section 231-35.

17 (d) Each county shall provide the department with all
18 relevant information about owners of real property that is
19 permitted as a transient accommodation by the respective county
20 by December 31 of each year, or within sixty calendar days of
21 any change in the relevant information or ownership of the
22 transient accommodation. Notwithstanding any provision of title



1 14 to the contrary, the department shall provide the counties
2 with information necessary for the enforcement of county real
3 property tax laws.

4 (e) The name and phone number of the designated agent for
5 each transient accommodation shall be included in any transient
6 accommodation contract or written rental agreement and shall be
7 prominently posted in the transient accommodation. The
8 designated agent shall reside on the same island as the
9 transient accommodation, and shall meet all other requirements
10 under subsection (a). Any person or entity who wilfully fails
11 to supply information required under this subsection shall be
12 subject to the penalties under section 231-35; provided that a
13 person or entity shall not be subject to any term of
14 imprisonment or probation under section 231-35.

15 (f) The registration identification number issued pursuant
16 to section 237D-4 shall be displayed conspicuously in all
17 advertisements and solicitations on websites regarding transient
18 accommodations for which the registration number is issued. If
19 the owner resides without the State or on another island from
20 where the transient accommodation is located, any advertisement
21 for the owner's transient accommodation shall also include the
22 name and phone number of a designated agent for that transient



1 accommodation. The designated agent shall reside on the same
2 island as the transient accommodation, and shall meet all other
3 requirements under subsection (a).

4 (g) The department shall include on its website
5 information relating to subsections (a), (b), (c), (e), (f), and
6 (h) to ensure the requirements of this section are readily
7 apparent and accessible to the public.

8 (h) The payment of any penalty assessed under this section
9 shall be in addition to the requirements under section 237D-9.

10 (i) For the purposes of this section:

11 "Relevant information" means the owner's name, address,
12 contact information, registration identification number issued
13 pursuant to section 237D-4, and website address if advertising
14 or soliciting the transient accommodation on the Internet."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2012.



Report Title:

Transient Accommodations; Designated Agent; Relevant Information; Advertisements; Department of Taxation

Description:

Requires any owner who resides without the State or on another island from where the transient accommodation is located to designate an agent residing on the same island where the transient accommodation is located, as required under the landlord-tenant code; defines duties of designated agent. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Requires specific information to be included in transient accommodations contracts, written rental agreements, advertisements, and solicitations. Requires the department of taxation to include certain information on its website. Subjects persons or entities who wilfully fail to supply certain information to existing penalties under the tax code. (SD2)

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