

JAN 24 2013

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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. Act 326, Session Laws of Hawaii 2012, is  
2 amended by amending section 2 to read as follows:

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

6 "§237D- Local contact; relevant information;  
7 advertisements; transient accommodations. (a) Any operator of  
8 a transient accommodation shall designate a local contact  
9 residing on the same island where the transient accommodation is  
10 located.

11 (b) The operator shall furnish the name, address, and  
12 contact information of the local contact to any association of  
13 homeowners, community association, condominium association,  
14 cooperative, or any other nongovernmental entity with covenants,  
15 bylaws, and administrative provisions with which the operator's  
16 compliance is required for the property where the transient  
17 accommodation is located. The operator shall notify and provide  
18 updated information to that association or nongovernmental

1 entity within sixty calendar days of any change in the name,  
2 address, and contact information of the local contact.

3 Any person or entity who wilfully fails to supply  
4 information required under this subsection shall [~~be subject to~~  
5 ~~the penalties under section 231-35; provided that a person or~~  
6 ~~entity shall not be subject to any term of imprisonment or~~  
7 ~~probation under section 231-35.] pay a civil penalty of \$1,000.~~

8 (c) Any nongovernmental entity with covenants, bylaws, and  
9 administrative provisions which is formed pursuant to chapter  
10 514A, 514B, or 421J, shall provide the department with all  
11 relevant information, maintained in its records, related to all  
12 operators who may be leasing their property as transient  
13 accommodations by December 31 of each year, or within sixty  
14 calendar days of any change in the relevant information,  
15 operation, or ownership of the transient accommodation. Any  
16 person or entity who wilfully fails to supply information  
17 required under this subsection shall [~~be subject to the~~  
18 ~~penalties under section 231-35; provided that a person or entity~~  
19 ~~shall not be subject to any term of imprisonment or probation~~  
20 ~~under section 231-35.] pay a civil penalty of \$1,000.~~

21 (d) Each county shall provide the department with  
22 information necessary to enforce this section. Notwithstanding  
23 any provision of title 14 to the contrary, the department shall

1 provide the counties with information necessary for the  
2 enforcement of county real property tax laws.

3 (e) The name and phone number of the local contact for  
4 each transient accommodation shall be included in any transient  
5 accommodation contract or written rental agreement and shall be  
6 prominently posted in the transient accommodation. The local  
7 contact shall reside on the same island as the transient  
8 accommodation, and shall meet all other requirements under  
9 subsection (a). Any person or entity who wilfully fails to  
10 supply information required under this subsection shall [~~be~~  
11 ~~subject to the penalties under section 231-35; provided that a~~  
12 ~~person or entity shall not be subject to any term of~~  
13 ~~imprisonment or probation under section 231-35.] pay a civil  
14 penalty of \$1,000.~~

15 (f) The registration identification number issued pursuant  
16 to section 237D-4 shall be provided on a website or by online  
17 link and displayed in all advertisements and solicitations on  
18 websites regarding transient accommodations for which the  
19 registration number is issued.

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

22 (h) For the purposes of this section:

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1 "Local contact" means an individual or company contracted  
2 by the operator of the transient accommodation to provide  
3 services required by this section. Nothing in this section  
4 shall be deemed to create an employer-employee relationship  
5 between an operator and its local contact.

6 "Relevant information" means the operator's name, address,  
7 contact information, registration identification number issued  
8 pursuant to section 237D-4, and website address if advertising  
9 or soliciting the transient accommodation on the Internet."

10 SECTION 2. Statutory material to repealed is bracketed and  
11 stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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SB. NO. 1186

**Report Title:**

Transient Accommodations Tax; Penalties

**Description:**

Amends the penalties imposed for failure to comply with Act 326, Session Laws of Hawaii 2012 and imposes civil penalties instead of criminal penalties.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS TAX

PURPOSE: To change the criminal penalty provisions of Act 326, Session Laws of Hawaii 2012, to civil penalty provisions.

MEANS: Amend section 2 of Act 326, Session Laws of Hawaii 2012.

JUSTIFICATION: Act 326 is intended to aid the Department in gathering information on transient accommodations operators in the State, as well as encourage off-island operators to provide local contact information to renters. The penalty provisions of Act 326 adopted certain portions of the criminal penalty provisions of section 231-35, HRS, resulting in a conflict between Act 326 and section 231-35, HRS. Moreover, the Department believes that the potential criminal penalties are unduly punitive for failing to report this information.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.