

JAN 18 2013

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

1 SECTION 1. The legislature finds that Act 326, Session
2 Laws of Hawaii 2012, requires associations to collect
3 information from operators of transient accommodations, maintain
4 the information in their records, and provide that information
5 to the department of taxation. However, Act 326 can be read to
6 require an association to report more information than is
7 actually collected and can penalize the association up to
8 \$100,000 for failure to report even when the owner of a
9 transient accommodation refuses or fails to provide relevant
10 information to the association.

11 Therefore, the purpose of this Act is to:

- 12 (1) Clarify that an association's duty to report to the
13 department of taxation is limited to the relevant
14 information an association actually receives from a
15 transient accommodation operator; and
- 16 (2) Limit the fines imposed on an association while also
17 holding an owner or operator of a transient
18 accommodation accountable for failure to report.



1 SECTION 2. 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 or having a principal place of business on the same
10 island where the transient accommodation is located.

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



1 Any person or entity who wilfully fails to supply
2 information required under this subsection shall be subject to
3 the penalties under section 231-35; provided that a person or
4 entity shall not be subject to any term of imprisonment or
5 probation under section 231-35.

6 (c) Any nongovernmental entity with covenants, bylaws, and
7 administrative provisions which is formed pursuant to chapter
8 514A, 514B, or 421J, shall provide the department with all
9 relevant information~~[,]~~ received from operators and maintained
10 in its records~~[, related to all operators who may be leasing~~
11 ~~their property as transient accommodations]~~ by December 31 of
12 each year, or within sixty calendar days of any change in the
13 relevant information, operation, or ownership of the transient
14 accommodation~~[-]~~; provided that a nongovernmental entity's duty
15 to report under this section shall be limited to relevant
16 information, if any, received from operators. Any person or
17 entity who wilfully fails to supply information required under
18 this subsection shall be subject to ~~[the penalties under section~~
19 ~~231-35; provided that a person or entity shall not be subject to~~
20 ~~any term of imprisonment or probation under section 231-35.]~~ a
21 fine of no more than \$2,500.



1 (d) Each county shall provide the department with
2 information necessary to enforce this section. Notwithstanding
3 any provision of title 14 to the contrary, the department shall
4 provide the counties with information necessary for the
5 enforcement of county real property tax laws.

6 (e) The name and phone number of the local contact for
7 each transient accommodation shall be included in any transient
8 accommodation contract or written rental agreement and shall be
9 prominently posted in the transient accommodation. The local
10 contact shall reside or have a principal place of business on
11 the same island as the transient accommodation, and shall meet
12 all other requirements under subsection (a). Any person or
13 entity who wilfully fails to supply information required under
14 this subsection shall be subject to the penalties under section
15 231-35; provided that a person or entity shall not be subject to
16 any term of imprisonment or probation under section 231-35.

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



1 (g) The payment of any penalty assessed under this section
2 against an operator shall be in addition to the requirements
3 under section 237D-9.

4 (h) For the purposes of this section:

5 "Local contact" means an individual or company contracted
6 by the operator [~~of the transient accommodation~~] to provide
7 services required by this section. Nothing in this section
8 shall be deemed to create an employer-employee relationship
9 between an operator and its local contact.

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

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 560

Report Title:

Transient Accommodations; Owners and Operators; Reporting Requirements

Description:

Clarifies that an association's duty to report to the department of taxation is limited to the relevant information an association actually receives from a transient accommodation operator. Limits the fines imposed on an association while also holding an owner or operator of a transient accommodation accountable for failure to report.

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

