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# 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 [~~the name, address, and~~  
12 ~~contact information of the local contact~~] relevant information  
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 [~~name, address, and~~  
21 ~~contact information of the local contact.~~] relevant information.



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.]~~ a fine of no more than \$2,500.

6 A fine under this subsection shall only be imposed where an  
 7 operator wilfully fails to furnish the relevant information  
 8 maintained in their records or update that information within  
 9 sixty days of a change. A fine shall not be imposed where an  
 10 operator fails to furnish or update information for reasons of  
 11 non-wilful conduct such as negligence or administrative error,  
 12 so long as the operator furnishes or updates the relevant  
 13 information within sixty days of the discovery of the  
 14 negligence, administrative error, or other non-wilful conduct.

15 (c) Any nongovernmental entity with covenants, bylaws, and  
 16 administrative provisions which is formed pursuant to chapter  
 17 514A, 514B, or 421J, shall provide the department with all  
 18 relevant information~~[,~~ received from operators and maintained  
 19 in its records~~[, related to all operators who may be leasing~~  
 20 ~~their property as transient accommodations]~~ by December 31 of  
 21 each year, or within sixty calendar days of any change in the  
 22 relevant information, operation, or ownership of the transient



1 accommodation[-]; provided that a nongovernmental entity's duty  
2 to report under this section shall be limited to relevant  
3 information, if any, received from operators. Any person or  
4 entity who wilfully fails to supply information required under  
5 this subsection shall be subject to [~~the penalties under section~~  
6 ~~231-35; provided that a person or entity shall not be subject to~~  
7 ~~any term of imprisonment or probation under section 231-35.] a  
8 fine of no more than \$2,500. A fine under this subsection shall  
9 be imposed no more than once per year.~~

10 (d) Each county shall provide the department with  
11 information necessary to enforce this section. Notwithstanding  
12 any provision of title 14 to the contrary, the department shall  
13 provide the counties with information necessary for the  
14 enforcement of county real property tax laws.

15 (e) The name and phone number of the local contact for  
16 each transient accommodation shall be included in any transient  
17 accommodation contract or written rental agreement and shall be  
18 prominently posted in the transient accommodation. The local  
19 contact shall reside or have a principal place of business on  
20 the same island as the transient accommodation, and shall meet  
21 all other requirements under subsection (a). Any person or  
22 entity who wilfully fails to supply information required under



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

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

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

12 (h) For the purposes of this section:

13 "Local contact" means an individual or company contracted  
14 by the operator [~~of the transient accommodation~~] to provide  
15 services required by this section. Nothing in this section  
16 shall be deemed to create an employer-employee relationship  
17 between an operator and its local contact.

18 "Relevant information" means the operator's name, mailing  
19 address, telephone number and other relevant contact  
20 information, registration identification number issued pursuant  
21 to section 237D-4, [~~and~~] website address if advertising or  
22 soliciting the transient accommodation on the Internet along



1 with which units were advertised on the website, the name of the  
2 local contact, the local contact's mailing address, and the  
3 local contact's phone number and other relevant contact  
4 information."

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

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



**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. (HB474 HD1)

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

