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# 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, under certain  
2 circumstances, allowing a private person to act as a tax  
3 collection agent is likely to ease the burden of collecting  
4 taxes. Section 237-9, Hawaii Revised Statutes, allows a person  
5 engaged in network marketing, multi-level marketing, or other  
6 similar business to enter into an agreement with the department  
7 of taxation to act as a tax collection agent on behalf of its  
8 direct sellers. The legislature finds that similarly allowing a  
9 transient accommodations broker to act as a tax collection agent  
10 on behalf of providers of transient accommodations that utilize  
11 the services of the transient accommodations broker may  
12 facilitate the collection of transient accommodations taxes and  
13 general excise taxes.

14           The purpose of this Act is to allow a transient  
15 accommodations broker to register to act as a tax collection  
16 agent with respect to transient accommodations taxes and general  
17 excise taxes for its operators and plan managers in a manner



1 that recognizes the dynamic changes that are occurring in the  
2 transient accommodations business.

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

6 "§237- Transient accommodations broker as tax collection  
7 agent. (a) The director may permit a transient accommodations  
8 broker to register as a tax collection agent on behalf of all of  
9 its operators and plan managers by entering into a tax  
10 collection agreement with the director or by submitting a  
11 transient accommodations broker tax collection agent  
12 registration statement to the director.

13 The director may deny an application for registration as a  
14 transient accommodations broker tax collection agent under this  
15 section for any cause authorized by law, including but not  
16 limited to any violation of this chapter or rules adopted  
17 pursuant thereto, violation of any prior tax collection  
18 agreement, or failure to meet minimum criteria that may be set  
19 forth by the department in rules adopted pursuant to chapter 91.



1       Execution of a tax collection agreement shall not be a  
2 requirement for registration as a transient accommodations  
3 broker tax collection agent.

4       The director shall issue a certificate of registration or  
5 letter of denial within thirty days after a transient  
6 accommodations broker submits to the director a completed and  
7 signed transient accommodations broker tax collection agent  
8 registration statement, in a form prescribed by the department.

9       The registration shall be valid only for the transient  
10 accommodations broker tax collection agent in whose name it is  
11 issued, and for the website or platform designated therein, and  
12 shall not be transferable.

13       A registered transient accommodations broker tax collection  
14 agent shall be issued separate licenses under this chapter with  
15 respect to taxes payable on behalf of its operators and plan  
16 managers in its capacity as a registered transient  
17 accommodations broker tax collection agent and, if applicable,  
18 with respect to any taxes payable under this chapter for its own  
19 business activities.

20       (b) In addition to its own responsibilities under this  
21 chapter, a registered transient accommodations broker tax



1 collection agent shall report, collect, and pay over the taxes  
2 due under this chapter on behalf of all of its operators and  
3 plan managers from the date of registration until the  
4 registration is canceled as provided in subsection (h); provided  
5 that the registered transient accommodations broker tax  
6 collection agent's obligation to report, collect, and pay taxes  
7 on behalf of all of its operators and plan managers shall apply  
8 solely to transient accommodations in the State arranged or  
9 booked directly through the registered transient accommodations  
10 broker tax collection agent.

11 (c) The registered transient accommodations broker tax  
12 collection agent's operators and plan managers shall obtain  
13 licensure under this chapter; provided that the registered  
14 transient accommodations broker tax collection agent may comply  
15 with all requirements of title 14 on behalf of the operators and  
16 plan managers for business activity conducted directly through  
17 the agent, from the date of registration until the registration  
18 is canceled as provided in subsection (h). For purposes of any  
19 other business activity, the operators and plan managers are  
20 subject to all requirements of title 14 as if this section did  
21 not exist.



1        (d) Under this section, a registered transient  
2 accommodations broker tax collection agent shall assume all  
3 obligations, rights, and responsibilities imposed by this  
4 chapter upon its operators and plan managers with respect to  
5 their business activities conducted directly through the  
6 registered transient accommodations broker tax collection agent  
7 from the date of registration until the registration is canceled  
8 as provided in subsection (h).

9        (e) A transient accommodations broker tax collection agent  
10 shall be personally liable for the taxes imposed by this chapter  
11 that are due and collected on behalf of operators and plan  
12 managers, if taxes are collected, but not reported or paid,  
13 together with penalties and interest as provided by law.

14        (f) All returns and other information provided by a  
15 registered transient accommodations broker tax collection agent,  
16 including the application for registration as a transient  
17 accommodations broker tax collection agent or any tax collection  
18 agreement, shall be confidential and disclosure thereof shall be  
19 prohibited as provided in section 237-34; provided that no  
20 disclosure of returns or information provided by the transient  
21 accommodations broker tax collection agent with respect to its



1 operators and plan managers shall be made pursuant to section  
2 237-34(b)(9), (10) or (11).

3 (g) A registered transient accommodations broker tax  
4 collection agent shall not be required to disclose to the  
5 director the names or addresses of any of its operators and plan  
6 managers in connection with any return, reconciliation, payment,  
7 or other filing by the registered transient accommodations  
8 broker tax collection agent under this chapter; provided that  
9 the name and address of an operator or plan manager shall be  
10 disclosed in response to a lawful and valid subpoena or upon  
11 waiver by the operator or plan manager.

12 (h) The registration provided for under this section shall  
13 be effective until canceled in writing.

14 A registered transient accommodations broker tax collection  
15 agent may cancel its registration under this section by  
16 delivering written notice of cancellation to the director and  
17 each of its operators and plan managers furnishing transient  
18 accommodations in the State not later than ninety days prior to  
19 the effective date of cancellation.

20 The director may cancel a transient accommodations broker  
21 tax collection agent's registration under this section for any



1 cause, including but not limited to any violation of this  
2 chapter or rules adopted pursuant thereto, or for violation of  
3 any applicable tax collection agreement, by delivering written  
4 notice of cancellation to the transient accommodations broker  
5 tax collection agent not later than ninety days prior to the  
6 effective date of cancellation.

7 (i) For the purposes of this section:

8 "Operator" has the same meaning as in section 237D-1.

9 "Plan manager" has the same meaning as in section 237D-1.

10 "Transient accommodations broker" has the same meaning as  
11 in section 237D-1.

12 (j) All registered transient accommodations broker tax  
13 collection agents shall inquire and ensure that the transient  
14 accommodation is in compliance with all pertinent state and  
15 county land use laws, including but not limited to:

16 (1) Prior to placing an advertisement, including an online  
17 advertisement, on the availability of a property for  
18 lease or rent on behalf of an operator or plan  
19 manager, notifying the operator or plan manager that  
20 the subject property is required to be in compliance  
21 with applicable state and county land use laws prior



1           to retaining the services of the transient  
2           accommodations broker; and  
3           (2) Requiring the operator or plan manager to provide  
4           verification of compliance with county land use laws  
5           in the form of a written certification, verification,  
6           or permit issued by the appropriate county agency."

7           SECTION 3. Chapter 237D, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10           "§237D-\_\_\_ Transient accommodations broker as tax  
11 collection agent. (a) The director may permit a transient  
12 accommodations broker to register as a tax collection agent on  
13 behalf of all of its operators and plan managers by entering  
14 into a tax collection agreement with the director or by  
15 submitting a transient accommodations broker tax collection  
16 agent registration statement to the director.

17           The director may deny an application for registration as a  
18 transient accommodations broker tax collection agent under this  
19 section for any cause authorized by law, including but not  
20 limited to any violation of this chapter or rules adopted  
21 pursuant thereto, violation of any prior tax collection





1 agreement, or failure to meet minimum criteria that may be set  
2 forth by the department in rules adopted pursuant to chapter 91.

3 Execution of a tax collection agreement shall not be a  
4 requirement for registration as a transient accommodations  
5 broker tax collection agent.

6 The director shall issue a certificate of registration or  
7 letter of denial within thirty days after a transient  
8 accommodations broker submits to the director a completed and  
9 signed transient accommodations broker tax collection agent  
10 registration statement, in a form prescribed by the department.  
11 The registration shall be valid only for the transient  
12 accommodations broker tax collection agent in whose name it is  
13 issued, and for the website or platform designated therein, and  
14 shall not be transferable.

15 A registered transient accommodations broker tax collection  
16 agent shall be issued separate certificates of registration  
17 under this chapter with respect to taxes payable on behalf of  
18 its operators and plan managers in its capacity as a registered  
19 transient accommodations broker tax collection agent and, if  
20 applicable, with respect to any taxes payable under this chapter  
21 for its own business activities.



1           (b) In addition to its own responsibilities under this  
2 chapter, a registered transient accommodations broker tax  
3 collection agent shall report, collect, and pay over the taxes  
4 due under this chapter on behalf of all of its operators and  
5 plan managers from the date of registration until the  
6 registration is canceled as provided in subsection (h); provided  
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8 collection agent's obligation to report, collect, and pay taxes  
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10 solely to transient accommodations in the State arranged or  
11 booked directly through the registered transient accommodations  
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13           (c) The registered transient accommodations broker tax  
14 collection agent's operators and plan managers shall obtain  
15 registration under this chapter; provided that the registered  
16 transient accommodations broker tax collection agent may comply  
17 with all requirements of title 14 on behalf of the operators and  
18 plan managers for business activity conducted directly through  
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20 is canceled as provided in subsection (h). For purposes of any  
21 other business activity, the operators and plan managers are,



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2 not exist.

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4 accommodations broker tax collection agent shall assume all  
5 obligations, rights, and responsibilities imposed by this  
6 chapter upon its operators and plan managers with respect to  
7 their business activities conducted directly through the  
8 registered transient accommodations broker tax collection agent  
9 from the date of registration until the registration is canceled  
10 as provided in subsection (h).

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12 shall be personally liable for the taxes imposed by this chapter  
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14 managers, if taxes are collected, but not reported or paid,  
15 together with penalties and interest as provided by law.

16 (f) All returns and other information provided by a  
17 registered transient accommodations broker tax collection agent,  
18 including the application for registration as a transient  
19 accommodations broker tax collection agent or any tax collection  
20 agreement, shall be confidential and disclosure thereof shall be  
21 prohibited as provided in section 237D-13; provided that no



1 disclosure of returns or information provided by the transient  
2 accommodations broker tax collection agent with respect to its  
3 operators and plan managers shall be made pursuant to section  
4 237D-13(a)(9), (10) or (11).

5 (g) A registered transient accommodations broker tax  
6 collection agent shall not be required to disclose to the  
7 director the names or addresses of any of its operators and plan  
8 managers in connection with any return, reconciliation, payment,  
9 or other filing by the registered transient accommodations  
10 broker tax collection agent under this chapter; provided that  
11 the name and address of an operator or plan manager shall be  
12 disclosed in response to a lawful and valid subpoena or upon  
13 waiver by the operator or plan manager.

14 (h) The registration provided for under this section shall  
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20 accommodations in the State not later than ninety days prior to  
21 the effective date of cancellation.



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2 tax collection agent's registration under this section for any  
3 cause, including but not limited to any violation of this  
4 chapter or rules adopted pursuant thereto, or for violation of  
5 any applicable tax collection agreement, by delivering written  
6 notice of cancellation to the transient accommodations broker  
7 tax collection agent not later than ninety days prior to the  
8 effective date of cancellation.

9       (i) All registered transient accommodations broker tax  
10 collection agents shall inquire and ensure that the transient  
11 accommodation is in compliance with all pertinent state and  
12 county land use laws, including but not limited to:

13       (1) Prior to placing an advertisement, including an online  
14 advertisement, on the availability of a property for  
15 lease or rent on behalf of an operator or plan  
16 manager, notifying the operator or plan manager that  
17 the subject property is required to be in compliance  
18 with applicable state and county land use laws prior  
19 to retaining the services of the transient  
20 accommodations broker; and



1        (2) Requiring the operator or plan manager to provide  
 2                    verification of compliance with county land use laws  
 3                    in the form of a written certification, verification,  
 4                    or permit issued by the appropriate county agency."

5            SECTION 4. By January 1, 2017, the director of taxation  
 6 shall make available to transient accommodations brokers a form  
 7 of application for registration as a transient accommodations  
 8 broker tax collection agent under the new section of chapter  
 9 237, Hawaii Revised Statutes, added by section 2 of this Act,  
 10 and under the new section of chapter 237D, Hawaii Revised  
 11 Statutes, added by section 3 of this Act.

12            SECTION 5. If any provision of this Act, or the  
 13 application thereof to any person or circumstance, is held  
 14 invalid, the invalidity does not affect other provisions or  
 15 applications of the Act that can be given effect without the  
 16 invalid provision or application, and to this end the provisions  
 17 of this Act are severable.

18            SECTION 6. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20            SECTION 7. This Act, upon its approval, shall apply to  
 21 taxable years beginning after December 31, 2016.



**Report Title:**

Taxation; Transient Accommodations Brokers; Tax Collection Agents; General Excise Tax; Transient Accommodations Tax

**Description:**

Allows transient accommodations brokers to register as a tax collection agent on behalf of all of its operators and plan managers. Requires registered transient accommodations broker tax collection agent's operators and plan managers to obtain licensure as a tax collection agent. Requires all registered transient accommodations broker tax collection agents to inquire and ensure that the transient accommodation is in compliance with all pertinent state and county land use laws. Requires the operator or plan manager to provide verification of compliance with county land use laws in the form of a written certification, verification, or permit issued by the appropriate county agency. (SD3)

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