
A BILL FOR AN ACT

RELATING TO VACATION RENTALS.

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(e), Hawaii Revised Statutes, allows a
5 person engaged in network marketing, multi-level marketing, or
6 other similar business to enter into an agreement with the
7 department of taxation to act as a tax collection agent on
8 behalf of its direct sellers. The legislature finds that
9 similarly allowing a transient accommodations broker to act as a
10 tax collection agent on behalf of providers of transient
11 accommodations, such as vacation rentals, that utilize the
12 services of the transient accommodations broker may facilitate
13 the collection of transient accommodations taxes and general
14 excise taxes.

15 The purpose of this Act is to enable a transient
16 accommodations broker to register as a tax collection agent with
17 respect to transient accommodations taxes and general excise



1 taxes for its operators and plan managers in a manner that
2 recognizes the dynamic changes occurring in the vacation rentals
3 sector. This Act is not intended to preempt or otherwise limit
4 the authority of counties to adopt, monitor, and enforce local
5 land use regulations, nor is this Act intended to transfer the
6 authority to monitor and enforce such regulations away from the
7 counties.

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

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

18 The director may deny an application for registration as a
19 transient accommodations broker tax collection agent under this
20 section for any cause authorized by law, including any violation
21 of this chapter or rules adopted pursuant thereto, violation of



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

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

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

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

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



1 business activities. A registered transient accommodations
2 broker tax collection agent shall file with the department
3 monthly or other periodic returns as required by section 237-30.
4 The required reporting information shall include gross transient
5 accommodations rentals, exemptions, and taxable income from the
6 registered transient accommodations broker tax collection
7 agent's business activity.

8 (b) In addition to its own responsibilities under this
9 chapter, a registered transient accommodations broker tax
10 collection agent shall report, collect, and pay over the taxes
11 due under this chapter on behalf of all of its operators and
12 plan managers from the date of registration until the
13 registration is canceled as provided in subsection (h); provided
14 that the registered transient accommodations broker tax
15 collection agent's obligation to report, collect, and pay taxes
16 on behalf of all of its operators and plan managers shall apply
17 solely to transient accommodations in the State that are
18 arranged or booked directly through the registered transient
19 accommodations broker tax collection agent.

20 (c) The registered transient accommodations broker tax
21 collection agent's operators and plan managers shall be deemed



1 licensed under this chapter; provided that the licensure shall
 2 apply solely to the business activity conducted directly through
 3 the registered transient accommodations broker tax collection
 4 agent from the date of registration until the registration is
 5 canceled as provided in subsection (h). For purposes of any
 6 other business activity, the operators and plan managers are
 7 subject to all requirements of title 14 as if this section did
 8 not exist.

9 (d) Under this section, a registered transient
 10 accommodations broker tax collection agent shall assume all
 11 obligations, rights, and responsibilities imposed by this
 12 chapter upon its operators and plan managers with respect to
 13 their business activities conducted directly through the
 14 registered transient accommodations broker tax collection agent
 15 from the date of registration until the registration is canceled
 16 as provided in subsection (h).

17 (e) A transient accommodations broker tax collection agent
 18 collects taxes imposed by this chapter on behalf of operators
 19 and plan managers, but if the agent does not report or pay the
 20 taxes due, then the agent shall be personally liable, together
 21 with penalties and interest as provided by law.



1 (f) All returns and other information provided by a
2 registered transient accommodations broker tax collection agent,
3 including the application for registration as a transient
4 accommodations broker tax collection agent or any tax collection
5 agreement, shall be confidential, and disclosure thereof shall
6 be prohibited as provided in section 237-34; provided that:

7 (1) No disclosure of returns or information provided by
8 the transient accommodations broker tax collection
9 agent with respect to its operators and plan managers
10 shall be made pursuant to section 237-34(b)(9), (10),
11 or (11); and

12 (2) All returns and the names and addresses provided by a
13 registered transient accommodations broker tax
14 collection agent shall be disclosed to a duly
15 authorized county tax official for the limited purpose
16 of real property tax administration.

17 (g) A registered transient accommodations broker tax
18 collection agent shall notify all of its operators and plan
19 managers in the State that it has been designated to collect,
20 report, and pay over the tax imposed by this chapter on their
21 behalf.



1 The director may require the transient accommodations
2 broker tax collection agent, as a condition of obtaining a
3 license, to furnish with an annual return, a list including the
4 federal tax identification number of all operators and plan
5 managers for the taxable year to whom the transient
6 accommodations broker tax collection agent has provided
7 information returns required under the Internal Revenue Code,
8 and any other information that is relevant to ensure proper
9 payment of taxes under title 14.

10 A transient accommodations broker tax collection agent
11 shall provide the names or addresses of any of its operators and
12 plan managers to the director when such a request is made
13 through a lawful and valid administrative process or upon waiver
14 by the operator or plan manager.

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

17 A registered transient accommodations broker tax collection
18 agent may cancel its registration under this section by
19 delivering written notice of cancellation to the director and
20 each of its operators and plan managers furnishing transient



1 accommodations in the State no later than ninety days prior to
2 the effective date of cancellation.

3 The director may cancel a transient accommodations broker
4 tax collection agent's registration under this section for any
5 cause authorized by law, including any violation of this chapter
6 or rules adopted pursuant thereto, or for violation of any
7 applicable tax collection agreement, by delivering written
8 notice of cancellation to the transient accommodations broker
9 tax collection agent no later than ninety days prior to the
10 effective date of cancellation.

11 (i) All registered transient accommodations broker tax
12 collection agents shall:

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, notify the operator or plan manager that the
17 subject property is required to be in compliance with
18 applicable land use laws prior to retaining the
19 services of the transient accommodations broker; and

20 (2) Require the operator or plan manager to attest that
21 the subject property is in compliance with applicable



1 land use laws by using the following language: "By
2 accepting the Terms of Service, I agree and attest
3 that I have reviewed all applicable laws and
4 regulations and that my listing is in compliance."

5 (j) Nothing contained in this section shall limit the
6 authority of the department under section 231-7 to conduct
7 audits, investigations, and hearings, and to issue subpoenas.
8 This shall include the authority to obtain transaction-level
9 data for specific transactions from a transient accommodations
10 broker tax collection agent.

11 (k) In addition to all other reporting requirements under
12 title 14, each transient accommodations broker tax collection
13 agent shall report annually to the director on an aggregate
14 basis:

15 (1) The total number of operators and plan managers by
16 county on whose behalf the transient accommodations
17 broker tax collection agent collected and remitted
18 taxes imposed by this chapter; and

19 (2) The total taxes by county imposed by this chapter so
20 collected and remitted.

21 (1) For the purposes of this section:



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

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

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

5 SECTION 3. 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- Transient accommodations broker as tax
9 collection agent. (a) The director may permit a transient
10 accommodations broker to register as a tax collection agent on
11 behalf of all of its operators and plan managers by entering
12 into a tax collection agreement with the director or by
13 submitting a transient accommodations broker tax collection
14 agent registration statement to the director.

15 The director may deny an application for registration as a
16 transient accommodations broker tax collection agent under this
17 section for any cause authorized by law, including any violation
18 of this chapter or rules adopted pursuant thereto, violation of
19 any prior tax collection agreement, or failure to meet minimum
20 criteria that may be set forth by the department in rules
21 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 certificates of registration
15 under this chapter with respect to taxes payable on behalf of
16 its operators and plan managers in its capacity as a registered
17 transient accommodations broker tax collection agent and, if
18 applicable, with respect to any taxes payable under this chapter
19 for its own business activities. A registered transient
20 accommodations broker tax collection agent shall file with the
21 department monthly or other periodic returns as required by



1 section 237D-6, reporting information including gross rentals or
2 gross rental proceeds, exemptions or deductions, taxable
3 proceeds, and taxes, each separated by taxation district.

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

16 (c) The registered transient accommodations broker tax
17 collection agent's operators and plan managers shall be deemed
18 registered under this chapter; provided that the registration
19 shall apply solely to the business activity conducted directly
20 through the registered transient accommodations broker tax
21 collection agent from the date of registration until the



1 registration is canceled as provided in subsection (h). For
2 purposes of any other business activity, the operators and plan
3 managers are subject to all requirements of title 14 as if this
4 section did not exist.

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

13 (e) A transient accommodations broker tax collection agent
14 collects taxes imposed by this chapter on behalf of operators
15 and plan managers, but if the agent does not report or pay the
16 taxes due, then the agent shall be personally liable for the
17 taxes due and penalties and interest as provided by law.

18 (f) All returns and other information provided by a
19 registered transient accommodations broker tax collection agent,
20 including the application for registration as a transient
21 accommodations broker tax collection agent or any tax collection



1 agreement, shall be confidential, and disclosure thereof shall
2 be prohibited as provided in section 237D-13; provided that:

3 (1) No disclosure of returns or information provided by
4 the transient accommodations broker tax collection
5 agent with respect to its operators and plan managers
6 shall be made pursuant to section 237D-13(a)(9), (10),
7 or (11); and

8 (2) All returns and the names and addresses provided by a
9 registered transient accommodations broker tax
10 collection agent shall be disclosed to a duly
11 authorized county tax official for the limited purpose
12 of real property tax administration.

13 (g) A registered transient accommodations broker tax
14 collection agent shall notify all of its operators and plan
15 managers in the State that it has been designated to collect,
16 report, and pay over the tax imposed by this chapter on their
17 behalf.

18 The director may require the transient accommodations
19 broker tax collection agent, as a condition of obtaining a
20 license, to furnish with an annual return, a list including the
21 federal tax identification number of all operators and plan



1 managers for the taxable year to whom the transient
2 accommodations broker tax collection agent has provided
3 information returns required under the Internal Revenue Code,
4 and any other information that is relevant to ensure proper
5 payment of taxes under title 14.

6 A transient accommodations broker tax collection agent
7 shall provide the names or addresses of any of its operators and
8 plan managers to the director when such a request is made
9 through a lawful and valid administrative process or upon waiver
10 by the operator or plan manager.

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

13 A registered transient accommodations broker tax collection
14 agent may cancel its registration under this section by
15 delivering written notice of cancellation to the director and
16 each of its operators and plan managers furnishing transient
17 accommodations in the State no later than ninety days prior to
18 the effective date of cancellation.

19 The director may cancel a transient accommodations broker
20 tax collection agent's registration under this section for any
21 cause authorized by law, including but not limited to any



1 violation of this chapter or rules adopted pursuant thereto, or
2 for violation of any applicable tax collection agreement, by
3 delivering written notice of cancellation to the transient
4 accommodations broker tax collection agent no later than ninety
5 days prior to the effective date of cancellation.

6 (i) All registered transient accommodations broker tax
7 collection agents shall:

8 (1) Prior to placing an advertisement, including an online
9 advertisement, on the availability of a property for
10 lease or rent on behalf of an operator or plan
11 manager, notify the operator or plan manager that the
12 subject property is required to be in compliance with
13 applicable land use laws prior to retaining the
14 services of the transient accommodations broker; and

15 (2) Require the operator or plan manager to attest that
16 the subject property is in compliance with applicable
17 land use laws by using the following language: "By
18 accepting the Terms of Service, I agree and attest
19 that I have reviewed all applicable laws and
20 regulations and that my listing is in compliance."



1 (j) Nothing contained in this section shall limit the
2 authority of the department under section 231-7 to conduct
3 audits, investigations, and hearings, and to issue subpoenas.
4 This shall include the authority to obtain transaction-level
5 data for specific transactions from a transient accommodations
6 broker tax collection agent.

7 (k) In addition to all other reporting requirements under
8 title 14, each transient accommodations broker tax collection
9 agent shall report annually to the director on an aggregate
10 basis:

11 (1) The total number of operators and plan managers by
12 county on whose behalf the transient accommodations
13 broker tax collection agent collected and remitted
14 taxes imposed by this chapter; and

15 (2) The total taxes imposed by this chapter so collected
16 and remitted."

17 SECTION 4. Section 237D-4, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Any advertisement, including an online advertisement,
20 for any transient accommodation or resort time share vacation
21 interest, plan, or unit shall conspicuously provide:



- 1 (1) The registration identification number or an
- 2 electronic link to the registration identification
- 3 number of [~~the~~] either:
- 4 (A) The operator or plan manager issued pursuant to
- 5 this section; [~~and~~] or
- 6 (B) The transient accommodations broker tax
- 7 collection agent registered under section
- 8 237D- , if applicable; and
- 9 (2) The local contact's name, phone number, and electronic
- 10 mail address, provided that this paragraph shall be
- 11 considered satisfied if this information is provided
- 12 to the transient or occupant prior to the furnishing
- 13 of the transient accommodation or resort time share
- 14 vacation unit."

15 SECTION 5. Section 237D-6.5, Hawaii Revised Statutes, is

16 amended by amending subsection (b) to read as follows:

17 "(b) Revenues collected under this chapter shall be

18 distributed in the following priority, with the excess revenues

19 to be deposited into the general fund:

- 20 (1) \$1,500,000 shall be allocated to the Turtle Bay
- 21 conservation easement special fund beginning July 1,



1 2015, for the reimbursement to the state general fund
2 of debt service on reimbursable general obligation
3 bonds, including ongoing expenses related to the
4 issuance of the bonds, the proceeds of which were used
5 to acquire the conservation easement and other real
6 property interests in Turtle Bay, Oahu, for the
7 protection, preservation, and enhancement of natural
8 resources important to the State, until the bonds are
9 fully amortized;

10 (2) \$26,500,000 shall be allocated to the convention
11 center enterprise special fund established under
12 section 201B-8;

13 (3) \$82,000,000 shall be allocated to the tourism special
14 fund established under section 201B-11; provided that:

15 (A) Beginning on July 1, 2012, and ending on June 30,
16 2015, \$2,000,000 shall be expended from the
17 tourism special fund for development and
18 implementation of initiatives to take advantage
19 of expanded visa programs and increased travel
20 opportunities for international visitors to
21 Hawaii;



- 1 (B) Of the \$82,000,000 allocated:
- 2 (i) \$1,000,000 shall be allocated for the
- 3 operation of a Hawaiian center and the
- 4 museum of Hawaiian music and dance at the
- 5 Hawaii convention center; and
- 6 (ii) 0.5 per cent of the \$82,000,000 shall be
- 7 transferred to a sub-account in the tourism
- 8 special fund to provide funding for a safety
- 9 and security budget, in accordance with the
- 10 Hawaii tourism strategic plan 2005-2015; and
- 11 (C) Of the revenues remaining in the tourism special
- 12 fund after revenues have been deposited as
- 13 provided in this paragraph and except for any sum
- 14 authorized by the legislature for expenditure
- 15 from revenues subject to this paragraph,
- 16 beginning July 1, 2007, funds shall be deposited
- 17 into the tourism emergency special fund,
- 18 established in section 201B-10, in a manner
- 19 sufficient to maintain a fund balance of
- 20 \$5,000,000 in the tourism emergency special fund;



1 (4) \$103,000,000 for fiscal year 2014-2015, \$103,000,000
2 for fiscal year 2015-2016, \$103,000,000 for fiscal
3 year 2016-2017, and \$93,000,000 for each fiscal year
4 thereafter shall be allocated as follows: Kauai
5 county shall receive 14.5 per cent, Hawaii county
6 shall receive 18.6 per cent, city and county of
7 Honolulu shall receive 44.1 per cent, and Maui county
8 shall receive 22.8 per cent; provided that commencing
9 with fiscal year 2018-2019, a sum that represents the
10 difference between a county public employer's annual
11 required contribution for the separate trust fund
12 established under section 87A-42 and the amount of the
13 county public employer's contributions into that trust
14 fund shall be retained by the state director of
15 finance and deposited to the credit of the county
16 public employer's annual required contribution into
17 that trust fund in each fiscal year, as provided in
18 section 87A-42, if the respective county fails to
19 remit the total amount of the county's required annual
20 contributions, as required under section 87A-43; [and]



- 1 (5) \$3,000,000 shall be allocated to the special land and
2 development fund established under section 171-19;
3 provided that the allocation shall be expended in
4 accordance with the Hawaii tourism authority strategic
5 plan for:
- 6 (A) The protection, preservation, maintenance, and
7 enhancement of natural resources, including
8 beaches, important to the visitor industry;
 - 9 (B) Planning, construction, and repair of facilities;
10 and
 - 11 (C) Operation and maintenance costs of public lands,
12 including beaches, connected with enhancing the
13 visitor experience[-]; and
- 14 (6) \$4,000,000 shall be allocated to the counties for
15 compliance and enforcement of the tax under this
16 chapter as follows:
- 17 \$1,000,000 for fiscal year 2017-2018 to Kauai county,
 - 18 \$1,000,000 for fiscal year 2017-2018 to Maui county,
 - 19 \$1,000,000 for fiscal year 2017-2018 to Hawaii county,
 - 20 and \$1,000,000 for fiscal year 2017-2018 to the city
21 and county of Honolulu.



1 All transient accommodations taxes shall be paid into the
2 state treasury each month within ten days after collection and
3 shall be kept by the state director of finance in special
4 accounts for distribution as provided in this subsection.

5 As used in this subsection, "fiscal year" means the twelve-
6 month period beginning on July 1 of a calendar year and ending
7 on June 30 of the following calendar year."

8 SECTION 6. By January 1, 2018, the director of taxation
9 shall make available to transient accommodations brokers a form
10 of application for registration as a transient accommodations
11 broker tax collection agent under the new section of chapter
12 237, Hawaii Revised Statutes, added by section 2 of this Act,
13 and under the new section of chapter 237D, Hawaii Revised
14 Statutes, added by section 3 of this Act.

15 SECTION 7. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2117, and
4 shall apply to taxable years beginning after December 31, 2017,
5 and:

6 (1) Shall be repealed on December 31, 2022;

7 (2) Shall not apply to taxable years beginning after
8 December 31, 2022; and

9 (3) Section 237D-4, Hawaii Revised Statutes, shall be
10 reenacted in the form in which it read on the day
11 prior to the effective date of this Act.



Report Title:

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

Description:

Allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services for vacation rentals. Ensures that the subject property is in compliance with applicable land use laws. Allocates \$1,000,000 of TAT revenues to each county for FY 2017-2018. Sunsets on 12/31/2022. (SB704 HD1)

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

