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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

PART I

SECTION 1. **Definitions.** As used in this part:

"Accounts receivable" means an amount of transient accommodations tax, general excise tax, penalty, or interest that has been recorded as due and entered in the account records or any ledger maintained in the department or that a taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation that a taxpayer knows is being conducted by the State.

"Department" means the department of taxation.

"Director" means the director of taxation.

"Final, due, and owing" means an assessment that has become final and is owed to the State, due to either the expiration of a taxpayer's appeal rights or the rendition of the final order by the director or by any court of this State. Assessments that have been appealed shall be final, due, and owing fifteen days after the last unappealed or unappealable order sustaining the



1 assessment or any part thereof has become final. Assessments  
2 that have not been appealed shall be final, due, and owing  
3 thirty days after service of notice of assessment.

4 "Taxpayer" means any individual, partnership, joint  
5 venture, association, corporation, receiver, trustee, guardian,  
6 executor, administrator, fiduciary, or any other entity of any  
7 kind subject to the general excise tax under chapter 237, Hawaii  
8 Revised Statutes, or the transient accommodations tax under  
9 chapter 237D, Hawaii Revised Statutes, or any person required to  
10 collect and remit to the State the general excise tax or  
11 transient accommodations tax.

12 SECTION 2. **Tax amnesty program; applicable time period.**

13 (a) The director shall develop and administer a one-time tax  
14 amnesty program as provided in this part. The director, upon  
15 the voluntary return and remission of transient accommodations  
16 or general excise taxes and interest owed by any taxpayer, shall  
17 waive all penalties that are assessed or subject to being  
18 assessed for outstanding liabilities for taxable periods ending  
19 or transactions occurring on or before December 31, 2017. The  
20 director shall adopt rules, pursuant to chapter 91, Hawaii  
21 Revised Statutes, necessary for the administration of this



1 amnesty program and shall further provide for necessary forms  
2 for the filing of amnesty applications and returns.

3 (b) Notwithstanding any other law to the contrary, the tax  
4 amnesty program shall begin no later than October 31, 2018, and  
5 shall be completed before January 1, 2019, and shall apply to  
6 all taxpayers owing taxes, penalties, or interest administered  
7 by the director under chapters 237 and 237D, Hawaii Revised  
8 Statutes.

9 SECTION 3. **Application; eligibility requirements.** (a)

10 This part shall apply to any taxpayer who files an application  
11 for amnesty within the time prescribed by the director and who:

12 (1) Files all returns as may be required by the director  
13 for all years or tax reporting periods as stated on  
14 the application:

15 (A) For which returns have not previously been filed;  
16 and

17 (B) For which returns were filed but the tax  
18 liability was underreported; and

19 (2) Pays in full the taxes due for the years and tax  
20 reporting periods stated on the application, at the  
21 time the application is made or amnesty tax returns



1           are filed within the designated amnesty program  
2           period.

3   In addition to the requirements set forth in paragraphs (1) and  
4   (2), the director may impose, by rule, the further condition  
5   that any eligible taxpayer pay in full, within the amnesty  
6   period, all taxes previously assessed by the director that are  
7   final, due, and owing at the time the application or amnesty tax  
8   returns are filed.

9           (b) An eligible taxpayer may participate in the amnesty  
10   program regardless of whether the taxpayer is under audit,  
11   notwithstanding the fact that the amount due is included in a  
12   proposed assessment or an assessment, bill, notice, or demand  
13   for payment issued by the director and without regard to whether  
14   the amount due is subject to a pending administrative or  
15   judicial proceeding. An eligible taxpayer may participate in  
16   the amnesty program to the extent of the uncontested portion of  
17   any assessed liability. However, participation in the program  
18   shall be conditioned upon the taxpayer's agreement that the  
19   right to protest or initiate an administrative or judicial  
20   proceeding or to claim any refund of moneys paid under the



1 program is barred with respect to the amounts paid with the  
2 application or amnesty return.

3 (c) The director shall allow installment payment  
4 agreements in cases of severe hardship in lieu of the complete  
5 payment required under subsection (a). In those cases, twenty-  
6 five per cent of the amount due shall be paid with the  
7 application or amnesty return, with the balance to be paid in  
8 monthly installments determined by the taxpayer and the  
9 director. Failure of the taxpayer to make timely payments shall  
10 void the terms of the amnesty. All agreements and payments  
11 shall not include interest due and accruing during the  
12 installment agreement.

13 SECTION 4. **Amnesty provisions.** (a) Amnesty shall be  
14 granted for any taxpayer who meets the requirements of section 3  
15 of this Act in accordance with the following:

16 (1) For taxes that are owed as a result of the  
17 nonreporting or underreporting of transient  
18 accommodations or general excise tax liabilities or  
19 the nonpayment of any accounts receivable owed by an  
20 eligible taxpayer, the State shall waive criminal  
21 prosecution and all civil penalties that may be



1           assessed under title 14, Hawaii Revised Statutes, for  
2           the taxable years or periods for which the tax amnesty  
3           is requested; and

4           (2) With the exception of instances in which the taxpayer  
5           and director enter into an installment payment  
6           agreement authorized under section 3(c) of this Act,  
7           the failure to pay all taxes as shown on the  
8           taxpayer's amnesty tax return shall invalidate any  
9           amnesty granted pursuant to this part.

10          (b) This part shall not apply to any taxpayer who is on  
11          notice, written or otherwise, that the taxpayer is the subject  
12          of any criminal investigation or criminal prosecution for  
13          nonpayment, delinquency, evasion, or fraud in relation to any  
14          federal taxes, the state general excise tax, or the transient  
15          accommodations tax.

16          (c) No refund or credit shall be granted for any interest  
17          or penalty paid prior to the time the taxpayer requests amnesty  
18          pursuant to section 3 of this Act.

19          (d) Unless the director, in the director's discretion,  
20          redetermines the amount of transient accommodations or general  
21          excise taxes and interest due, no refund or credit shall be



1 granted for any transient accommodations or general excise taxes  
2 or interest paid under the amnesty program.

3       SECTION 5. **Public awareness.** The director shall adopt  
4 rules under chapter 91, Hawaii Revised Statutes, issue forms and  
5 instructions, and take all actions necessary to implement this  
6 part. The director shall publicize the tax amnesty program in  
7 order to maximize the public awareness of, and participation in,  
8 the program. For the purpose of publicizing the tax amnesty  
9 program, the director may contract with any advertising agency  
10 within or outside this State.

11       SECTION 6. **Separate accounting.** For purposes of  
12 accounting for the revenues received pursuant to this part, the  
13 director shall maintain a separate accounting and reporting of  
14 funds collected under the amnesty program. All funds collected  
15 shall be remitted to the general fund.

16                   PART II

17       SECTION 7. The legislature finds that, under certain  
18 circumstances, allowing a private person to act as a tax  
19 collection agent is likely to ease the burden of collecting  
20 taxes. Section 237-9(e), Hawaii Revised Statutes, allows a  
21 person engaged in network marketing, multi-level marketing, or



1 other similar business to enter into an agreement with the  
2 department of taxation to act as a tax collection agent on  
3 behalf of its direct sellers. The legislature finds that  
4 similarly allowing a transient accommodations broker to act as a  
5 tax collection agent on behalf of providers of transient  
6 accommodations that utilize the services of the transient  
7 accommodations broker may facilitate the collection of transient  
8 accommodations taxes and general excise taxes.

9 The legislature further finds that, to increase  
10 transparency and ensure the veracity of the taxes being  
11 collected, transient accommodations brokers acting as tax  
12 collection agents must provide pertinent information to the  
13 department of taxation regarding the operators and plan managers  
14 on whose behalf they collect taxes.

15 The purpose of this part is to allow a transient  
16 accommodations broker to register to act as a tax collection  
17 agent with respect to transient accommodations taxes and general  
18 excise taxes for its operators and plan managers in a manner  
19 that recognizes the dynamic changes that are occurring in the  
20 transient accommodations business.

21 This part is not intended to:





(1) Preempt or otherwise limit the authority of the counties to adopt, monitor, and enforce local land use regulations;

(2) Transfer the authority to monitor and enforce the regulations away from the counties; or

(3) Violate any federal laws.

This part is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawaii or its agencies, departments, entities, employees, or any other person.

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

**"§237- Transient accommodations broker as tax collection agent.** (a) The director may permit a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers by entering into a tax collection agreement with the director or by submitting a tax collection agent registration statement to the director; provided that the transient accommodations broker has



obtained written consent from the operators and plan managers  
for the periodic returns and disclosure of information required  
under subsection (g) and agrees to furnish information to the  
counties as required in subsection (g). Any tax collection  
agreement entered into pursuant to this section shall be subject  
to and in accordance with all applicable provisions of state law  
and county ordinances and shall not permit a tax collection  
agent, nor any operator or plan manager conducting business  
through the tax collection agent, to opt out of any requirements  
or obligations under state law or county ordinance.

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

The director shall issue a certificate of registration or  
letter of denial within thirty days after a transient  
accommodations broker submits to the director a completed and



1 signed tax collection agent registration statement, in a form  
2 prescribed by the department.

3 The registration shall be valid only for the tax collection  
4 agent in whose name it is issued, and for the website or  
5 platform designated therein, and shall not be transferable.

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

16 (c) The registered tax collection agent's operators and  
17 plan managers shall obtain licensure under this chapter and  
18 remain subject to the requirements of title 14; provided that  
19 the registered tax collection agent shall report, collect, and  
20 pay the taxes under this chapter on behalf of the operators and  
21 plan managers for business activity conducted directly through



1 the agent, as set forth in this section, from the date of  
2 registration until the registration is canceled as provided in  
3 subsection (h). For purposes of any other business activity,  
4 the operators and plan managers shall be subject to all  
5 requirements of title 14 and all county ordinances and rules  
6 regulating short-term rentals, vacation rentals, or bed and  
7 breakfast lodging within their jurisdictions as if this section  
8 did not exist.

9 A registered tax collection agent shall be issued separate  
10 licenses under this chapter with respect to taxes payable on  
11 behalf of its operators and plan managers in its capacity as a  
12 registered tax collection agent and, if applicable, with respect  
13 to any taxes payable under this chapter for its own business  
14 activities.

15 (d) If the registered tax collection agent fails to report  
16 or pay the taxes under this chapter on behalf of the operators  
17 and plan managers, as set forth in this section, the registered  
18 tax collection agent and the operator or plan manager shall be  
19 jointly and severally liable for the taxes due under this  
20 chapter, including penalties and interest as provided by law,  
21 with respect to their business activities conducted directly



1 through the registered tax collection agent from the date of  
2 registration until the registration is canceled as provided in  
3 subsection (h).

4 (e) A tax collection agent shall be personally liable for  
5 the taxes imposed by this chapter that are due and collected on  
6 behalf of operators and plan managers, if taxes are collected,  
7 but not reported or paid, together with penalties and interest  
8 as provided by law. If the tax collection agent is an entity,  
9 the personal liability under this subsection shall apply to any  
10 officer, member, manager, or other person who has control or  
11 supervision over amounts collected to pay the taxes or who is  
12 charged with the responsibility for the filing of returns or the  
13 payment of taxes.

14 (f) Except as provided in subsection (g), all returns and  
15 other information provided by a registered tax collection agent,  
16 including the application for registration as a tax collection  
17 agent or any tax collection agreement, shall be confidential,  
18 and disclosure thereof shall be prohibited as provided in  
19 section 237-34.

20 (g) A registered tax collection agent shall file periodic  
21 returns in accordance with section 237-30 and annual returns in



accordance with section 237-33. Each periodic return required  
under section 237-30 shall be accompanied by an electronic cover  
sheet, in a form prescribed by the department that includes the  
following information:

(1) For each operator and plan manager on whose behalf the  
tax collection agent is required to report, collect,  
and pay over taxes due under this chapter, the  
operator's or plan manager's name, address, and  
license identification number; and

(2) For each transient accommodation, rented through the  
registered tax collection agent or the website or  
platform designated in the certificate of registration  
issued pursuant to chapter 237D, for which taxes are  
being remitted pursuant to this chapter:

(A) The address of the transient accommodation;

(B) The number of nights that each transient  
accommodation was rented and the rate or price at  
which each transient accommodation was rented;  
and

(C) The amount of tax being remitted pursuant to this  
chapter and the amount of any federal form 1099



1 income that was derived from each transient  
2 accommodation.

3 Upon request by the planning director or mayor of the  
4 applicable county, a registered tax collection agent shall  
5 disclose any of the information contained in the returns or  
6 cover sheets required by this subsection to the planning  
7 director or any county official designated by the mayor to  
8 receive the information. Notwithstanding any law to the  
9 contrary, including section 237-34, the planning director and  
10 county official designated to receive the information pursuant  
11 to this subsection may examine and copy the returns and cover  
12 sheets to ensure compliance with this section, state tax laws  
13 and county tax ordinances, and any applicable land use laws and  
14 ordinances.

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

17 A registered tax collection agent may cancel its  
18 registration under this section by delivering written notice of  
19 cancellation to the director and each of its operators and plan  
20 managers furnishing transient accommodations in the State not



1 later than ninety days prior to the effective date of  
2 cancellation.

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

10 (i) All transient accommodations brokers, prior to  
11 publishing an advertisement, including an online advertisement,  
12 on the availability of a property for lease or rent on behalf of  
13 an operator or plan manager:

14 (1) Shall notify the operator or plan manager that the  
15 subject property is required to be in compliance with  
16 applicable state and county land use laws and  
17 ordinances prior to retaining the services of the  
18 transient accommodations broker;

19 (2) Shall require the operator or plan manager to provide  
20 the transient accommodations broker with the operator  
21 or plan manager's transient accommodations number and





local contact information and include this information  
in the advertisement, pursuant to section 237D-4;

(3) Shall require the operator or plan manager to provide  
the transient accommodations broker with verification  
of compliance with state and county land use laws in  
the form of a written certification, verification, or  
permit, as applicable, issued by the appropriate  
county agency; and

(4) Shall require the operator or plan manager to provide  
a statement to the transient accommodations broker  
confirming compliance with all applicable land use  
laws and ordinances.

An operator or plan manager shall remove any advertisement  
published through the transient accommodations broker, including  
an online advertisement, for a transient accommodation located  
in the State for which the operator or plan manager fails to  
comply with paragraph (2), (3), or (4) or for which the operator  
or plan manager has received written notice from a state or  
county governmental authority that the property is not in  
compliance with state law or county ordinance, as applicable.



1 The state or county governmental authority shall provide a copy  
2 of the written notice to the transient accommodations broker.

3 (j) Nothing in this section shall be construed to preempt  
4 or prohibit the authority of a unit of local government in the  
5 State, including counties and any other political subdivisions  
6 of the State, to adopt, monitor, and enforce local land use  
7 ordinances, rules, or regulations, nor to transfer the authority  
8 to monitor and enforce these ordinances, rules, or regulations  
9 away from the counties.

10 (k) For the purposes of this section:

11 "Director" means the director of taxation.

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

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

14 "Transient accommodations" has the same meaning as in  
15 section 237D-1.

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

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



1       "§237D-       Transient accommodations broker as tax  
2 collection agent.   (a)   The director may permit a transient  
3 accommodations broker to register as a tax collection agent on  
4 behalf of all of its operators and plan managers by entering  
5 into a tax collection agreement with the director or by  
6 submitting a tax collection agent registration statement to the  
7 director; provided that the transient accommodations broker has  
8 obtained written consent from the operators and plan managers  
9 for the periodic returns and disclosure of information required  
10 under subsection (g) and agrees to furnish information to the  
11 counties as required in subsection (g). Any tax collection  
12 agreement entered into pursuant to this section shall be subject  
13 to and in accordance with all applicable provisions of state law  
14 and county ordinances and shall not permit a tax collection  
15 agent, nor any operator or plan manager conducting business  
16 through the tax collection agent, to opt out of any requirements  
17 or obligations under state law or county ordinance.

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



1 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 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 tax collection agent registration statement, in a form  
8 prescribed by the department. The registration shall be valid  
9 only for the tax collection agent in whose name it is issued,  
10 and for the website or platform designated therein, and shall  
11 not be transferable.

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

18 (b) In addition to its own responsibilities under this  
19 chapter, a registered tax collection agent shall report,  
20 collect, and pay over the taxes due under this chapter on behalf  
21 of all of its operators and plan managers from the date of



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

7       (c) The registered tax collection agent's operators and  
8 plan managers shall obtain registration under this chapter and  
9 remain subject to the requirements of title 14; provided that  
10 the registered tax collection agent shall report, collect, and  
11 pay the taxes under this chapter on behalf of the operators and  
12 plan managers for business activity conducted directly through  
13 the registered tax collection agent, as set forth in this  
14 section, from the date of registration until the registration is  
15 canceled as provided in subsection (h). For purposes of any  
16 other business activity, the operators and plan managers shall  
17 be subject to all requirements of title 14 and all applicable  
18 ordinances and rules regulating short-term rentals, vacation  
19 rentals, or bed and breakfast lodging within their jurisdictions  
20 as if this section did not exist.



(d) If the registered tax collection agent fails to report or pay the taxes under this chapter on behalf of the operators and plan managers, as set forth in this section, the registered tax collection agent and the operator or plan manager shall be jointly and severally liable for the taxes due under this chapter, including penalties and interest as provided by law, with respect to their business activities conducted directly through the registered tax collection agent from the date of registration until the registration is canceled as provided in subsection (h).

(e) A tax collection agent shall be personally liable for the taxes imposed by this chapter that are due and collected on behalf of operators and plan managers, if taxes are collected, but not reported or paid, together with penalties and interest as provided by law. If the tax collection agent is an entity, the personal liability under this subsection shall apply to any officer, member, manager, or other person who has control or supervision over amounts collected to pay the taxes or who is charged with the responsibility for the filing of returns or the payment of taxes.



1 (f) Except as provided in subsection (g), all returns and  
2 other information provided by a registered tax collection agent,  
3 including the application for registration as a tax collection  
4 agent or any tax collection agreement, shall be confidential,  
5 and disclosure thereof shall be prohibited as provided in  
6 section 237D-13.

7 (g) A registered tax collection agent shall file periodic  
8 returns in accordance with section 237D-6 and annual returns in  
9 accordance with section 237D-7. Each periodic return required  
10 under section 237D-6 shall be accompanied by an electronic cover  
11 sheet, in a form prescribed by the department that includes the  
12 following information:

13 (1) For each operator and plan manager on whose behalf the  
14 tax collection agent is required to report, collect,  
15 and pay over taxes due under this chapter, the  
16 operator's or plan manager's name, address, and  
17 transient accommodations registration identification  
18 number; and

19 (2) For each transient accommodation, rented through the  
20 registered tax collection agent or the website or  
21 platform designated in the certificate of registration



1 issued pursuant to subsection (a), for which taxes are  
2 being remitted pursuant to this chapter:

3 (A) The address of the transient accommodation;

4 (B) The number of nights that each transient  
5 accommodation was rented and the rate or price at  
6 which each transient accommodation was rented;  
7 and

8 (C) The amount of tax being remitted pursuant to this  
9 chapter and the amount of any federal form 1099  
10 income that was derived from each transient  
11 accommodation.

12 Upon request by the planning director or mayor of the  
13 applicable county, a registered tax collection agent shall  
14 disclose any of the information contained in the returns or  
15 cover sheets required by this subsection to the planning  
16 director or any county official designated by the mayor to  
17 receive the information. Notwithstanding any law to the  
18 contrary, including section 237D-13, the planning director and  
19 county official designated to receive the information pursuant  
20 to this subsection may examine and copy the returns and cover  
21 sheets to ensure compliance with this section, state and county





1 tax laws and ordinances, and any applicable land use laws and  
2 ordinances.

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

5 A registered tax collection agent may cancel its  
6 registration under this section by delivering written notice of  
7 cancellation to the director and each of its operators and plan  
8 managers furnishing transient accommodations in the State not  
9 later than ninety days prior to the effective date of  
10 cancellation.

11 The director may cancel a tax collection agent's  
12 registration under this section for any cause, including but not  
13 limited to any violation of this chapter or rules adopted  
14 pursuant thereto, or for violation of any applicable tax  
15 collection agreement, by delivering written notice of  
16 cancellation to the tax collection agent not later than ninety  
17 days prior to the effective date of cancellation.

18 (i) All transient accommodations brokers, prior to placing  
19 an advertisement, including an online advertisement, on the  
20 availability of a property for lease or rent on behalf of an  
21 operator or plan manager:



- 1       (1) Shall notify the operator or plan manager that the  
2       subject property is required to be in compliance with  
3       applicable state land use laws and county land use  
4       ordinances prior to retaining the services of the  
5       transient accommodations broker;
- 6       (2) Shall require the operator or plan manager to provide  
7       the transient accommodations broker with the operator  
8       or plan manager's transient accommodations number and  
9       local contact information and include this information  
10      in the advertisement, pursuant to section 237D-4;
- 11      (3) Shall require the operator or plan manager to provide  
12      the transient accommodations broker with verification  
13      of compliance with state land use laws and county land  
14      use ordinances in the form of a written certification,  
15      verification, or permit, as applicable, issued by the  
16      appropriate county agency; and
- 17      (4) Shall require the operator or plan manager to provide  
18      a statement to the transient accommodations broker  
19      confirming compliance with all land use laws and  
20      ordinances.



1       An operator or plan manager shall remove any advertisement  
2 published through the transient accommodations broker, including  
3 an online advertisement, for a transient accommodation located  
4 in the State for which the operator or plan manager fails to  
5 comply with paragraph (2), (3), or (4) or for which the operator  
6 or plan manager has received written notice from a state or  
7 local governmental authority that the property is not in  
8 compliance with state law or county ordinance, as applicable.  
9 The state or county governmental authority shall provide a copy  
10 of the written notice to the transient accommodations broker.

11       (j) Nothing in this section shall be construed to preempt  
12 or prohibit the authority of a unit of local government in the  
13 State, including counties and any other political subdivisions  
14 of the State, to adopt, monitor, and enforce local land use  
15 ordinances, rules, or regulations, nor to transfer the authority  
16 to monitor and enforce these ordinances, rules, or regulations  
17 away from the counties."

18       SECTION 10. Chapter 481B, Hawaii Revised Statutes, is  
19 amended by adding a new section to part I to be appropriately  
20 designated and to read as follows:



1       "§481B-       Transient accommodations brokers.   (a)   It  
2   shall be unlawful for a transient accommodations broker to  
3   engage in business with an operator or plan manager, including  
4   any person or entity employed, contracted, or otherwise engaged  
5   by the operator or plan manager for property management or as an  
6   activity provider, that is not in compliance with all state laws  
7   and county ordinances, including but not limited to laws and  
8   ordinances regarding land use, taxes, and professional licenses.

9       (b)   It shall be unlawful for a transient accommodations  
10   broker, on behalf of an operator or plan manager, to employ,  
11   contract, or otherwise engage in business with any person or  
12   entity to manage any property of the operator or plan manager or  
13   to act as an activity provider for transients served by the  
14   operator or plan manager if the person or entity is not in  
15   compliance with all state laws and county ordinances, including  
16   but not limited to laws and ordinances regarding land use,  
17   taxes, and professional licenses.

18       (c)   Violation of this section is a class C felony.

19       (d)   For the purposes of this section:

20       "Activity provider" has the same meaning as in section  
21   468M-1.



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

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

7 SECTION 11. Section 46-1.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§46-1.5 General powers and limitation of the counties.**

10 Subject to general law, each county shall have the following  
11 powers and shall be subject to the following liabilities and  
12 limitations:

13 (1) Each county shall have the power to frame and adopt a  
14 charter for its own self-government that shall  
15 establish the county executive, administrative, and  
16 legislative structure and organization, including but  
17 not limited to the method of appointment or election  
18 of officials, their duties, responsibilities, and  
19 compensation, and the terms of their office;

20 (2) Each county shall have the power to provide for and  
21 regulate the marking and lighting of all buildings and



1 other structures that may be obstructions or hazards  
2 to aerial navigation, so far as may be necessary or  
3 proper for the protection and safeguarding of life,  
4 health, and property;

5 (3) Each county shall have the power to enforce all claims  
6 on behalf of the county and approve all lawful claims  
7 against the county, but shall be prohibited from  
8 entering into, granting, or making in any manner any  
9 contract, authorization, allowance payment, or  
10 liability contrary to the provisions of any county  
11 charter or general law;

12 (4) Each county shall have the power to make contracts and  
13 to do all things necessary and proper to carry into  
14 execution all powers vested in the county or any  
15 county officer;

16 (5) Each county shall have the power to:

17 (A) Maintain channels, whether natural or artificial,  
18 including their exits to the ocean, in suitable  
19 condition to carry off storm waters;

20 (B) Remove from the channels, and from the shores and  
21 beaches, any debris that is likely to create an



unsanitary condition or become a public nuisance; provided that, to the extent any of the foregoing work is a private responsibility, the responsibility may be enforced by the county in lieu of the work being done at public expense;

(C) Construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded;

(D) Enact zoning ordinances providing that lands deemed subject to seasonable, periodic, or occasional flooding shall not be used for residence or other purposes in a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016); and



*[Faint, illegible text]*

- 1           (E) Establish and charge user fees to create and  
2           maintain any stormwater management system or  
3           infrastructure;
- 4           (6) Each county shall have the power to exercise the power  
5           of condemnation by eminent domain when it is in the  
6           public interest to do so;
- 7           (7) Each county shall have the power to exercise  
8           regulatory powers over business activity as are  
9           assigned to them by chapter 445 or other general law;
- 10          (8) Each county shall have the power to fix the fees and  
11          charges for all official services not otherwise  
12          provided for;
- 13          (9) Each county shall have the power to provide by  
14          ordinance assessments for the improvement or  
15          maintenance of districts within the county;
- 16          (10) Except as otherwise provided, no county shall have the  
17          power to give or loan credit to, or in aid of, any  
18          person or corporation, directly or indirectly, except  
19          for a public purpose;
- 20          (11) Where not within the jurisdiction of the public  
21          utilities commission, each county shall have the power





1 to regulate by ordinance the operation of motor  
2 vehicle common carriers transporting passengers within  
3 the county and adopt and amend rules the county deems  
4 necessary for the public convenience and necessity;  
5 (12) Each county shall have the power to enact and enforce  
6 ordinances necessary to prevent or summarily remove  
7 public nuisances and to compel the clearing or removal  
8 of any public nuisance, refuse, and uncultivated  
9 undergrowth from streets, sidewalks, public places,  
10 and unoccupied lots. In connection with these powers,  
11 each county may impose and enforce liens upon the  
12 property for the cost to the county of removing and  
13 completing the necessary work where the property  
14 owners fail, after reasonable notice, to comply with  
15 the ordinances. The authority provided by this  
16 paragraph shall not be self-executing, but shall  
17 become fully effective within a county only upon the  
18 enactment or adoption by the county of appropriate and  
19 particular laws, ordinances, or rules defining "public  
20 nuisances" with respect to each county's respective  
21 circumstances. The counties shall provide the



1 property owner with the opportunity to contest the  
2 summary action and to recover the owner's property;

3 (13) Each county shall have the power to enact ordinances  
4 deemed necessary to protect health, life, and  
5 property, and to preserve the order and security of  
6 the county and its inhabitants on any subject or  
7 matter not inconsistent with, or tending to defeat,  
8 the intent of any state statute where the statute does  
9 not disclose an express or implied intent that the  
10 statute shall be exclusive or uniform throughout the  
11 State;

12 (14) Each county shall have the power to:

13 (A) Make and enforce within the limits of the county  
14 all necessary ordinances covering all:

15 (i) Local police matters;

16 (ii) Matters of sanitation;

17 (iii) Matters of inspection of buildings;

18 (iv) Matters of condemnation of unsafe

19 structures, plumbing, sewers, dairies, milk,

20 fish, and morgues; and



(v) Matters of the collection and disposition of  
rubbish and garbage;

(B) Provide exemptions for homeless facilities and  
any other program for the homeless authorized by  
part XVII of chapter 346, for all matters under  
this paragraph;

(C) Appoint county physicians and sanitary and other  
inspectors as necessary to carry into effect  
ordinances made under this paragraph, who shall  
have the same power as given by law to agents of  
the department of health, subject only to  
limitations placed on them by the terms and  
conditions of their appointments; and

(D) Fix a penalty for the violation of any ordinance,  
which penalty may be a misdemeanor, petty  
misdemeanor, or violation as defined by general  
law; provided that any violation of a county  
zoning ordinance ordained under section 46-4 may  
additionally prescribe a penalty of a class C  
felony;



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(15) Each county shall have the power to provide public pounds; to regulate the impounding of stray animals and fowl, and their disposition; and to provide for the appointment, powers, duties, and fees of animal control officers;

(16) Each county shall have the power to purchase and otherwise acquire, lease, and hold real and personal property within the defined boundaries of the county and to dispose of the real and personal property as the interests of the inhabitants of the county may require, except that:

(A) Any property held for school purposes may not be disposed of without the consent of the superintendent of education;

(B) No property bordering the ocean shall be sold or otherwise disposed of; and

(C) All proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes;

(17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the  
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make  
4 appropriations in amounts deemed appropriate from any  
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;

7 (B) The entertainment of distinguished persons as may  
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,  
10 as well as, public officials when deemed to be in  
11 the best interest of the community; and

12 (D) The rendering of civic tribute to individuals  
13 who, by virtue of their accomplishments and  
14 community service, merit civic commendations,  
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,  
18 sublease, or in any other manner acquire, manage,  
19 maintain, or dispose of buildings for county  
20 purposes, sewers, sewer systems, pumping  
21 stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



1 (21) Unless otherwise provided by law, each county shall  
2 have the power to establish by ordinance the order of  
3 succession of county officials in the event of a  
4 military or civil disaster;

5 (22) Each county shall have the power to sue and be sued in  
6 its corporate name;

7 (23) Each county shall have the power to establish and  
8 maintain waterworks and sewer works; to collect rates  
9 for water supplied to consumers and for the use of  
10 sewers; to install water meters whenever deemed  
11 expedient; provided that owners of premises having  
12 vested water rights under existing laws appurtenant to  
13 the premises shall not be charged for the installation  
14 or use of the water meters on the premises; to take  
15 over from the State existing waterworks systems,  
16 including water rights, pipelines, and other  
17 appurtenances belonging thereto, and sewer systems,  
18 and to enlarge, develop, and improve the same;

19 (24) (A) Each county may impose civil fines, in addition  
20 to criminal penalties, and remedies for  
21 disgorgement of all profits and restitution of



any money, real property, or personal property  
that was obtained through unfair or unlawful  
business acts and practices, for any violation of  
county ordinances or rules after a reasonable  
notice and ~~[requests]~~ request to correct or cease  
the violation ~~[have]~~ has been made upon the  
violation. Any administratively imposed civil  
fine shall not be collected until ~~[after]~~ either  
an opportunity for:

(i) [a] A hearing under chapter 91[-]; or

(ii) Judicial review by the circuit court, as  
prescribed by ordinance for specific  
violations,

has been afforded. Any appeal shall be filed  
within thirty days from the date of the final  
written decision. These proceedings shall not be  
stayed pending disposition of any criminal  
proceeding for a related offense. These  
proceedings shall not be a prerequisite for any  
civil fine or injunctive relief ordered by the  
circuit court~~[+]~~. Where a county seeks





injunctive relief for violations of an ordinance  
related to transient vacation rental units, the  
county need not show irreparable injury;

(B) Each county by ordinance may provide for the addition of any unpaid civil fines, ordered by any court of competent jurisdiction, to any taxes, fees, or charges, with the exception of fees or charges for water for residential use and sewer charges, collected by the county. Each county by ordinance may also provide for the addition of any unpaid administratively imposed civil fines, which remain due after all judicial review rights under section 91-14 are exhausted, to any taxes, fees, or charges, with the exception of water for residential use and sewer charges, collected by the county. The ordinance shall specify the administrative procedures for the addition of the unpaid civil fines to the eligible taxes, fees, or charges and may require hearings or other proceedings. After addition of the unpaid civil fines to the taxes, fees, or



charges, the unpaid civil fines shall not become a part of any taxes, fees, or charges. The county by ordinance may condition the issuance or renewal of a license, approval, or permit for which a fee or charge is assessed, except for water for residential use and sewer charges, on payment of the unpaid civil fines. Upon recordation of a notice of unpaid civil fines in the bureau of conveyances, the amount of the civil fines, including any increase in the amount of the fine ~~[which]~~ that the county may assess, shall constitute a lien upon all real property or rights to real property belonging to any person liable for the unpaid civil fines. The lien in favor of the county shall be subordinate to any lien in favor of any person recorded or registered prior to the recordation of the notice of unpaid civil fines and senior to any lien recorded or registered after the recordation of the notice. The lien shall continue until the unpaid civil fines are paid in full or until a



1 certificate of release or partial release of the  
2 lien, prepared by the county at the owner's  
3 expense, is recorded. The notice of unpaid civil  
4 fines shall state the amount of the fine as of  
5 the date of the notice and maximum permissible  
6 daily increase of the fine. The county shall not  
7 be required to include a social security number,  
8 state general excise taxpayer identification  
9 number, or federal employer identification number  
10 on the notice. Recordation of the notice in the  
11 bureau of conveyances shall be deemed, at [~~such~~]  
12 that time, for all purposes and without any  
13 further action, to procure a lien on land  
14 registered in land court under chapter 501.  
15 After the unpaid civil fines are added to the  
16 taxes, fees, or charges as specified by county  
17 ordinance, the unpaid civil fines shall be deemed  
18 immediately due, owing, and delinquent and may be  
19 collected in any lawful manner. The procedure  
20 for collection of unpaid civil fines authorized  
21 in this paragraph shall be in addition to any



1 other procedures for collection available to the  
2 State and county by law or rules of the courts;  
3 (C) Each county may impose civil fines upon any  
4 person who places graffiti on any real or  
5 personal property owned, managed, or maintained  
6 by the county. The fine may be up to \$1,000 or  
7 may be equal to the actual cost of having the  
8 damaged property repaired or replaced. The  
9 parent or guardian having custody of a minor who  
10 places graffiti on any real or personal property  
11 owned, managed, or maintained by the county shall  
12 be jointly and severally liable with the minor  
13 for any civil fines imposed hereunder. Any  
14 [~~such~~] fine under this paragraph may be  
15 administratively imposed after an opportunity for  
16 a hearing under chapter 91, but [~~such~~] a  
17 [~~proceeding~~] hearing shall not be a prerequisite  
18 for any civil fine ordered by any court. As used  
19 in this subparagraph, "graffiti" means any  
20 unauthorized drawing, inscription, figure, or



1 mark of any type intentionally created by paint,  
2 ink, chalk, dye, or similar substances;

3 (D) At the completion of an appeal in which the  
4 county's enforcement action is affirmed and upon  
5 correction of the violation if requested by the  
6 violator, the case shall be reviewed by the  
7 county agency that imposed the civil fines to  
8 determine the appropriateness of the amount of  
9 the civil fines that accrued while the appeal  
10 proceedings were pending. In its review of the  
11 amount of the accrued fines, the county agency  
12 may consider:

13 (i) The nature and egregiousness of the  
14 violation;

15 (ii) The duration of the violation;

16 (iii) The number of recurring and other similar  
17 violations;

18 (iv) Any effort taken by the violator to correct  
19 the violation;

20 (v) The degree of involvement in causing or  
21 continuing the violation;



- 1 (vi) Reasons for any delay in the completion of  
2 the appeal; and  
3 (vii) Other extenuating circumstances.

4 The civil fine that is imposed by administrative  
5 order after this review is completed and the  
6 violation is corrected shall be subject to  
7 judicial review, notwithstanding any provisions  
8 for administrative review in county charters;  
9 (E) After completion of a review of the amount of  
10 accrued civil fine by the county agency that  
11 imposed the fine, the amount of the civil fine  
12 determined appropriate, including both the  
13 initial civil fine and any accrued daily civil  
14 fine, shall immediately become due and  
15 collectible following reasonable notice to the  
16 violator. If no review of the accrued civil fine  
17 is requested, the amount of the civil fine, not  
18 to exceed the total accrual of civil fine prior  
19 to correcting the violation, shall immediately  
20 become due and collectible following reasonable



notice to the violator, at the completion of all  
appeal proceedings;

(F) If no county agency exists to conduct appeal  
proceedings for a particular civil fine action  
taken by the county, then one shall be  
established by ordinance before the county shall  
impose the civil fine;

(25) Any law to the contrary notwithstanding, any county  
mayor, by executive order, may exempt donors, provider  
agencies, homeless facilities, and any other program  
for the homeless under part XVII of chapter 346 from  
real property taxes, water and sewer development fees,  
rates collected for water supplied to consumers and  
for use of sewers, and any other county taxes,  
charges, or fees; provided that any county may enact  
ordinances to regulate and grant the exemptions  
granted by this paragraph;

(26) Any county may establish a captive insurance company  
pursuant to article 19, chapter 431; and

(27) Each county shall have the power to enact and enforce  
ordinances regulating towing operations."



1       SECTION 12. Section 46-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) This section and any ordinance, rule, or regulation  
4 adopted in accordance with this section shall apply to lands not  
5 contained within the forest reserve boundaries as established on  
6 January 31, 1957, or as subsequently amended.

7       Zoning in all counties shall be accomplished within the  
8 framework of a long-range, comprehensive general plan prepared  
9 or being prepared to guide the overall future development of the  
10 county. Zoning shall be one of the tools available to the  
11 county to put the general plan into effect in an orderly manner.

12 Zoning in the counties of Hawaii, Maui, and Kauai means the  
13 establishment of districts of [~~such~~] a number, shape, and area,  
14 and the adoption of regulations for each district, to carry out  
15 the purposes of this section. In establishing or regulating the  
16 districts, full consideration shall be given to all available  
17 data as to soil classification and physical use capabilities of  
18 the land to allow and encourage the most beneficial use of the  
19 land consonant with good zoning practices. The zoning power  
20 granted herein shall be exercised by ordinance which may relate  
21 to:





- 1 (1) The areas within which agriculture, forestry,  
2 industry, trade, and business may be conducted;
- 3 (2) The areas in which residential uses may be regulated  
4 or prohibited;
- 5 (3) The areas bordering natural watercourses, channels,  
6 and streams, in which trades or industries, filling or  
7 dumping, erection of structures, and the location of  
8 buildings may be prohibited or restricted;
- 9 (4) The areas in which particular uses may be subjected to  
10 special restrictions;
- 11 (5) The location of buildings and structures designed for  
12 specific uses and designation of uses for which  
13 buildings and structures may not be used or altered;
- 14 (6) The location, height, bulk, number of stories, and  
15 size of buildings and other structures;
- 16 (7) The location of roads, schools, and recreation areas;
- 17 (8) Building setback lines and future street lines;
- 18 (9) The density and distribution of population;
- 19 (10) The percentage of a lot that may be occupied, size of  
20 yards, courts, and other open spaces;
- 21 (11) Minimum and maximum lot sizes; and



(12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines ~~[and]~~, penalties, and remedies for disgorgement of all profits and restitution of any money, real property, or personal property that was obtained through unfair or unlawful business acts and practices, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances. In any action brought under this part, the court or zoning agency, in addition to any fine imposed upon the ordinance violator, shall allow costs of action, including costs and fees of any nature and reasonable attorney's fees, to be paid by the ordinance violator.

An operator or plan manager who fails to remove an advertisement within seven days of receiving a notice of



1 noncompliance under section 237- (i) or 237D- (i) shall be  
2 considered to be in violation of this section and applicable  
3 county land use ordinances and shall be subject to civil fines,  
4 ranging from \$25,000 to \$100,000, to be levied by the county  
5 planning director of the county where the subject property is  
6 located.

7 The counties shall ordain ordinances prohibiting transient  
8 accommodations brokers from engaging in business with an  
9 operator or plan manager who is not in compliance with all state  
10 laws and county ordinances, including but not limited to laws  
11 and ordinances regarding land use, taxes, and professional  
12 licenses. Violation of these ordinances shall be a class C  
13 felony enforceable by the respective county prosecutor.

14 Any civil fine or penalty provided by ordinance under this  
15 section may be imposed by the district court, or by the zoning  
16 agency after an opportunity for a hearing pursuant to chapter  
17 91. The proceeding shall not be a prerequisite for any  
18 injunctive relief ordered by the circuit court.

19 Nothing in this section shall invalidate any zoning  
20 ordinance or regulation adopted by any county or other agency of



1 government pursuant to the statutes in effect prior to July 1,  
2 1957.

3 The powers granted herein shall be liberally construed in  
4 favor of the county exercising them, and in such a manner as to  
5 promote the orderly development of each county or city and  
6 county in accordance with a long-range, comprehensive general  
7 plan to ensure the greatest benefit for the State as a whole.  
8 This section shall not be construed to limit or repeal any  
9 powers of any county to achieve these ends through zoning and  
10 building regulations, except insofar as forest and water reserve  
11 zones are concerned and as provided in subsections (c) and (d).

12 Neither this section nor any ordinance enacted pursuant to  
13 this section shall prohibit the continued lawful use of any  
14 building or premises for any trade, industrial, residential,  
15 agricultural, or other purpose for which the building or  
16 premises is used at the time this section or the ordinance takes  
17 effect; provided that a zoning ordinance may provide for  
18 elimination of nonconforming uses as the uses are discontinued,  
19 or for the amortization or phasing out of nonconforming uses or  
20 signs over a reasonable period of time in commercial,  
21 industrial, resort, and apartment zoned areas only. A zoning



ordinance may provide for the amortization or phasing out of  
conforming or nonconforming single-family transient vacation  
rental units over a reasonable period of time in an area of any  
zoning classification. In no event shall [~~such~~] the  
amortization or phasing out of nonconforming uses apply to any  
existing building or premises used for residential (single-  
family or duplex) or agricultural uses[~~-~~] other than transient  
vacation rental units, as provided in this section. Nothing in  
this section shall affect or impair the powers and duties of the  
director of transportation as set forth in chapter 262."

SECTION 13. By January 1, 2019, the director of taxation  
shall make available to transient accommodations brokers a form  
of application for registration as a tax collection agent under  
the new section of chapter 237, Hawaii Revised Statutes, added  
by section 8 of this Act, and under the new section of chapter  
237D, Hawaii Revised Statutes, added by section 9 of this Act.

SECTION 14. Upon the establishment by a county of a  
process for providing verification of compliance by an operator  
or plan manager with that county's land use ordinances, the  
director of taxation shall transfer to that county per  
cent of the transient accommodations tax and general excise tax



1 revenues collected pursuant to this part in that county for that  
2 fiscal year.

3 PART III

4 SECTION 15. Chapter 481B, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§481B- Booking services. (a) It shall be unlawful  
8 for a hosting platform to provide, and collect a fee for,  
9 booking services in connection with transient vacation rentals  
10 located in the State if those transient vacation rentals are not  
11 lawfully certified, registered, or permitted as a transient  
12 vacation rental under applicable county ordinance at the time  
13 the transient vacation rental is rented.

14 (b) The appropriate officer or agency charged with the  
15 administration of county zoning laws shall enforce this section  
16 within each county.

17 (c) Violation of this section shall be subject  
18 to.

19 (d) As used in this section:

20 "Booking service" means any reservation or payment service  
21 provided by a person or entity that facilitates a transient



vacation rental transaction between an operator and a  
prospective renter, and for which the person or entity collects  
or receives, directly or indirectly through an agent or  
intermediary, a fee in connection with the reservation or  
payment services provided for the transient vacation rental  
transaction.

"County" means the city and county of Honolulu and the  
counties of Hawaii, Kauai, and Maui; provided that the county of  
Maui shall include the county of Kalawao for the purposes of  
this section.

"Hosting platform" means a person or entity that  
participates in the transient vacation rental business by  
providing, and collecting or receiving a fee for, booking  
services through which an operator may offer a transient  
vacation rental unit. Hosting platforms usually, though not  
necessarily, provide booking services through an online platform  
that allows an operator to advertise the transient vacation  
rental unit through a website provided by the hosting platform  
and the hosting platform conducts a transaction by which  
potential renters arrange use and payment, whether the renter  
pays rent directly to the operator or to the hosting platform.



1       "Operator" means any person operating a transient vacation  
2       rental, whether as owner or proprietor or as lessee, sublessee,  
3       mortgagee in possession, licensee, or otherwise, or engaging or  
4       continuing in any service business that involves the actual  
5       furnishing of transient vacation rental.

6       "Transient vacation rental" means "transient vacation  
7       rental", "transient vacation unit", or "transient vacation use",  
8       as defined by county ordinance."

9                               PART IV

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

16       SECTION 17. Statutory material to be repealed is bracketed  
17       and stricken. New statutory material is underscored.

18       SECTION 18. This Act shall take effect upon its approval.





**Report Title:**

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

**Description:**

Establishes a 1-time amnesty program for certain delinquent transient accommodations and general excise tax obligations. Allows transient accommodations brokers to register as a tax collection agent for its operators and plan managers. Requires registered tax collection agents to inquire with their operators and plan managers whether the transient accommodation is in compliance with all state and county land use and tax laws. Requires the operator or plan manager to provide verification of compliance with state and county land use laws. Requires an operator or plan manager to remove a transient accommodation advertisement upon notice that the property is not in compliance with state law or county ordinance. Makes it unlawful for transient accommodations brokers to engage in business with operators of plan managers that are not in compliance with all state laws and county ordinances. Authorizes counties to disgorge profits obtained through unfair or unlawful business practices. Authorizes counties to adopt ordinances to amortize or phase out transient vacation rental units. Allocates an unspecified percentage of GET and TAT tax revenues to the counties, contingent upon establishment of a process to provide verification of compliance by an operator or plan manager with county land use laws. Makes it unlawful for a hosting platform to collect a fee for booking services regarding transient vacation rentals that are not lawfully certified, registered, or permitted under applicable county ordinance. (Proposed SD1)

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

