



Aloha Chair Wakai and Chair Nishihara.

On behalf of the lodging industry, we stand united behind responsible and appropriate regulation of short-term rentals (STR) in Hawaii. We appreciate the valuable work you are doing to ensure short-term rental companies and the unregulated commercial businesses they facilitate operate by a standard set of rules that ensure a level playing field and protect our neighborhoods.

The SD 1 that you have provided is clearly a step in the right direction, and we support the intent of the SD 1, offering comments and suggested amendments which would codify:

- Mandatory state registration for short-term rentals.
- Transparency of data reported by STR platforms to ensure maximum collection of taxes from STR activity.
- Penalties sufficient to encourage compliance by hosts, and penalties for platforms listing non-compliant units.
- No Preemption of County authority to regulate STR's

Our communities are at stake

Earlier this month, CBRE released a report that examined the rise of commercial activity taking place on Airbnb nationwide. The report focused on 13 of the nation's largest Airbnb markets, which includes Oahu. The results confirmed what many in Hawaii already know—most vacation rental units here are owned by part-time residents or commercial operators, not small home-owners renting a room out to supplement their income. In fact, **85% of Oahu Airbnb revenue comes from entire-home rentals**. More alarming is the explosion of multi-unit entire home vacation rentals springing up in neighborhoods across Oahu. Airbnb's revenue from multi-unit home vacations jumped an astonishing 227% in the last year.

This proliferation of illegal STRs degrades the quality of life for our residents and worsens the problem of inadequate affordable housing supply in Hawaii.

We're not opposed to Oahu visitors having alternative lodging options like vacation rentals, but it shouldn't be at the expense of kama'aina communities. We should be concerned that companies want us to turn a blind eye to the fact that many multi-unit hosts are in fact illegal hotel operators. For these reasons, we urge your strong consideration of our suggested revisions to HB1471 SD 1; please find attached:

1. Suggested revisions to HB1471 SD 1, in redline and clean versions.
2. An explanation of the proposed revisions.

The Hotel industry is one of the most competitive industries in the world, and we welcome anyone willing to play by the rules. Our stake in this fight is about the communities where our 109,000 member employees live in Hawaii. Our members pay \$3.8billion a year in Federal, State, and Local taxes in Hawaii, and are actively engaged in countless activities supporting the needs of Hawaii residents. We are voicing our strong support for parity and common sense solutions which will ensure the protection of our communities because Hawaii is who are, and Hawaii is who care about.

Mahalo,

Kekoa McClellan, Spokesman - American Hotel and Lodging Association



A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that, under certain
2 circumstances, allowing a private person to act as a tax
3 collection agent is likely to ease the burden of collecting
4 taxes. Section 237-9, Hawaii Revised Statutes, allows a person
5 engaged in network marketing, multi-level marketing, or other
6 similar business to enter into an agreement with the department
7 of taxation to act as a tax collection agent on behalf of its
8 direct sellers. The legislature finds that similarly allowing a
9 transient accommodations broker to act as a tax collection agent
10 on behalf of ~~providers of transient accommodations~~operators of
11 short-term rental lodging that utilize the services of the
12 transient accommodations broker may facilitate the collection of
13 transient accommodations taxes and general excise taxes.

14 The legislature further finds that, to increase
15 transparency and ensure the veracity of the taxes being
16 collected, transient accommodations brokers acting as tax
17 collectors must provide pertinent information to the department
18 of taxation about the short-term rental lodging operators ~~and~~
19 ~~plan managers~~ on whose behalf they collect taxes.

1 The purpose of this Act is to allow a transient
2 accommodations broker to register to act as a tax collection
3 agent with respect to transient accommodations taxes and general
4 excise taxes for its short-term rental lodging operators ~~and~~
5 ~~plan managers~~ in a manner that recognizes the dynamic changes
6 that are occurring in the transient accommodations business.

7 This Act is not intended to preempt or otherwise limit the
8 authority of the counties to adopt, monitor, and enforce local
9 land use regulations, nor is this Act intended to transfer the
10 authority to monitor and enforce such regulations away from the
11 counties.

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

15 **"§237- Transient accommodations broker as tax collection**

16 **agent.** (a) The director of taxation may permit a transient
17 accommodations broker to register as a tax collection agent on
18 behalf of all of its ~~short-term rental lodging~~ operators ~~and~~
19 ~~plan managers~~ by entering into a tax collection agreement with
20 the director or by submitting a transient accommodations broker
21 tax collection agent registration statement to the director.

22 Any tax collection agreement entered into pursuant to this
23 section shall be subject to and in accordance with all
24 applicable provisions of state and local law and shall not

1 permit a transient accommodations broker tax collection agent,
2 nor any short-term rental lodging operator conducting business
3 through the transient accommodations broker tax collection
4 agent, to opt out of any requirements or obligations under state
5 or local law.

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

13 The director shall issue a certificate of registration or
14 letter of denial within thirty days after a transient
15 accommodations broker submits to the director a completed and
16 signed transient accommodations broker tax collection agent
17 registration statement, in a form prescribed by the department.
18 The registration shall be valid only for the transient
19 accommodations broker tax collection agent in whose name it is
20 issued, and for the website or platform designated therein, and
21 shall not be transferable.

22 A registered transient accommodations broker tax collection
23 agent shall be issued separate certificates of registration
24 under this chapter with respect to taxes payable on behalf of

1 its ~~short-term rental lodging operators and plan managers~~ in its
2 capacity as a registered transient accommodations broker tax
3 collection agent and, if applicable, with respect to any taxes
4 payable under this chapter for its own business activities. A
5 registered transient accommodations broker tax collection agent
6 shall file periodic returns in accordance with section ~~237D-~~
7 ~~6237-30~~ and annual returns in accordance with section ~~237D-7237-~~
8 33. The reporting information shall include but not be limited
9 to the name, address, and ~~transient accommodations~~ general excise
10 tax number of each ~~short-term rental lodging operator and plan~~
11 ~~manager~~ during the applicable period.

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

1 (c) The registered transient accommodations broker tax
2 collection agent's short-term rental lodging operators and plan
3 managers shall obtain licensure under this chapter and, from the
4 date of the broker's registration until the registration is
5 canceled as provided in subsection (f), shall remain subject to
6 the requirements of title 14; provided that the registered
7 except for the tax remittance and reporting obligations assumed
8 by the transient accommodations broker tax collection agent may
9 comply with all requirements of title 14 on behalf of the
10 operators and plan managers pursuant to this section for business
11 activity conducted directly through the agent, from the date of
12 registration until the registration is canceled as provided in
13 subsection (h). For purposes of any other business activity,
14 the operators and plan managers are and shall remain subject to
15 all requirements of title 14 and all county, city, and town laws
16 or ordinances, and rules and regulations thereunder, regulating
17 short-term rentals, vacation rentals, or bed and breakfast
18 lodging within their jurisdictions as if this section did not
19 exist. For purposes of any other business activity, the short-
20 term rental lodging operators are subject to all requirements of
21 title 14 and all county, city, and town laws or ordinances, and
22 rules and regulations thereunder, regulating short-term rentals,
23 vacation rentals, or bed and breakfast lodging within their
24 jurisdictions as if this section did not exist.

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

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

15 ~~(#e)~~ All returns and other information provided by a
16 registered transient accommodations broker tax collection agent,
17 including the application for registration as a transient
18 accommodations broker tax collection agent or any tax collection
19 agreement, shall be confidential and disclosure thereof shall be
20 prohibited as provided in section 237-34-~~7~~; ~~provided that all~~
21 ~~returns and the names and addresses provided by a registered~~
22 ~~transient accommodations broker tax collection agent shall be~~
23 ~~disclosed to duly authorized county tax and permitting and~~
24 ~~planning officials.~~

1 ~~— (g) A registered transient accommodations broker tax~~
2 ~~collection agent may be required to disclose to the director the~~
3 ~~names or addresses of any of its operators and plan managers in~~
4 ~~connection with any return, reconciliation, payment, or other~~
5 ~~filing by the registered transient accommodations broker tax~~
6 ~~collection agent under this chapter; provided that such~~
7 ~~information shall remain confidential and disclosure thereof~~
8 ~~shall be prohibited as provided in section 237-34.~~

9 ~~— (h) (f)~~ The registration provided for under this
10 section shall be effective until canceled in writing.

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

17 The director may cancel a transient accommodations broker
18 tax collection agent's registration under this section for any
19 cause, including but not limited to any violation of this
20 chapter or rules adopted pursuant thereto, or for violation of
21 any applicable tax collection agreement, by delivering written
22 notice of cancellation to the transient accommodations broker
23 tax collection agent not later than ninety days prior to the
24 effective date of cancellation.

1 (g) For the purposes of this section:

2 "Director" means the director of taxation.

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

4 ~~— "Plan manager" "Short-term rental lodging"~~ has the same
5 meaning as in section 237D-1.

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

8 (h) All registered transient accommodations broker tax
9 collection agents ~~shall inquire and ensure that the transient~~
10 ~~accommodation is in compliance with all pertinent state and~~
11 ~~county land use laws, including but not limited, prior to~~
12 ~~Prior to placing publishing~~ an advertisement, including an
13 online advertisement, on the availability of a property for
14 lease or rent on behalf of ~~ana~~ short-term rental lodging
15 ~~operator or plan manager, notifying:~~

16 (1) ~~Shall notify the short-term rental lodging operator or~~
17 ~~plan manager~~ that the subject property is required to
18 be in compliance with applicable state and county land
19 use laws prior to retaining the services of the
20 transient accommodations broker;

21 (2) ~~Requiring~~ Shall require the short-term rental lodging
22 ~~operator or plan manager to display or make available~~
23 ~~its transient accommodation tax registration~~
24 ~~identification number and to provide the transient~~

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1 accommodations broker with the short-term rental
2 lodging operator's transient accommodations number,
3 along with other and local contact information
4 required under section 237D-4, and include such
5 information in anythe advertisement, in compliance
6 with section 237D-4; and

7 (3) Requiring the Shall require the short-term rental
8 lodging operator or plan manager to provide the
9 transient accommodations broker with verification of
10 compliance with county land use laws in the form of a
11 written certification, verification, or permit issued
12 by the appropriate county agency.

13 A transient accommodations broker shall remove any advertisement
14 published through the transient accommodations broker, including
15 an online advertisement, for a transient accommodation located
16 in the State for which the short-term rental lodging operator or
17 plan manager fails to comply with paragraph (2) or (3) or for
18 which the transient accommodations broker has received written
19 notice from a state or local governmental authority that the
20 short-term rental lodging operator or plan manager has failed to
21 comply with applicable land use, zoning, or tax requirements."

22 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is
23 amended by adding a new section to be appropriately designated
24 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 short-term rental lodging operators ~~and~~
5 plan managers by entering into a tax collection agreement with
6 the director or by submitting a transient accommodations broker
7 tax collection agent registration statement to the director.
8 Any tax collection agreement entered into pursuant to this
9 section shall be subject to and in accordance with all
10 applicable provisions of state and local law and shall not
11 permit a transient accommodations broker tax collection agent,
12 nor any short-term rental lodging operator conducting business
13 through the transient accommodations broker tax collection
14 agent, to opt out of any requirements or obligations under state
15 or local law.

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

23 The director shall issue a certificate of registration or
24 letter of denial within thirty days after a transient

1 accommodations broker submits to the director a completed and
2 signed transient accommodations broker tax collection agent
3 registration statement, in a form prescribed by the department.
4 The registration shall be valid only for the transient
5 accommodations broker tax collection agent in whose name it is
6 issued, and for the website or platform designated therein, and
7 shall not be transferable.

8 A registered transient accommodations broker tax collection
9 agent shall be issued separate certificates of registration
10 under this chapter with respect to taxes payable on behalf of
11 its ~~short-term rental lodging operators and plan managers~~ in its
12 capacity as a registered transient accommodations broker tax
13 collection agent and, if applicable, with respect to any taxes
14 payable under this chapter for its own business activities. A
15 registered transient accommodations broker tax collection agent
16 shall file periodic returns in accordance with section 237D-6
17 and annual returns in accordance with section 237D-7. The
18 reporting information shall include but not be limited to the
19 name, address, and transient accommodations tax number of each
20 ~~short-term rental lodging operator and plan manager~~ during the
21 applicable period.

22 (b) In addition to its own responsibilities under this
23 chapter, a registered transient accommodations broker tax
24 collection agent shall report, collect, and pay over the taxes

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

11 (c) The registered transient accommodations broker tax
12 collection agent's ~~short-term rental lodging operators and plan~~
13 ~~managers~~ shall obtain registration under this chapter and, from
14 the date of the broker's registration until the registration is
15 canceled as provided in subsection (f), shall remain subject to
16 the requirements of title 14; ~~provided that the registered~~
17 ~~except for the tax remittance and reporting obligations assumed~~
18 ~~by the~~ transient accommodations broker tax collection agent ~~may~~
19 ~~comply with all requirements of title 14 on behalf of the~~
20 ~~operators and plan managers~~ pursuant to this section for business
21 activity conducted directly through the agent, ~~from the date of~~
22 ~~registration until the registration is canceled as provided in~~
23 ~~subsection (h)~~ and shall remain subject to all county, city, and
24 town laws or ordinances, and rules and regulations thereunder,

1 regulating short-term rentals, vacation rentals, or bed and
2 breakfast lodging within their jurisdictions. For purposes of
3 any other business activity, the short-term rental lodging
4 operators ~~and plan managers~~ are subject to all requirements of
5 title 14 and all county, city, and town laws or ordinances, and
6 rules and regulations thereunder, regulating short-term rentals,
7 vacation rentals, or bed and breakfast lodging within their
8 jurisdictions as if this section did 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~~ (d) A transient accommodations broker tax
18 collection agent shall be personally liable for the taxes
19 imposed by this chapter that are due and collected on behalf of
20 short-term rental lodging operators ~~and plan managers~~, if taxes
21 are collected, but not reported or paid, together with penalties
22 and interest as provided by law.

23 ~~(fe)~~ All returns and other information provided by a
24 registered transient accommodations broker tax collection agent,

1 including the application for registration as a transient
2 accommodations broker tax collection agent or any tax collection
3 agreement, shall be confidential and disclosure thereof shall be
4 prohibited as provided in section 237D-13; provided that all
5 returns and the names and addresses provided by a registered
6 transient accommodations broker tax collection agent shall be
7 disclosed to duly authorized county tax and permitting and
8 planning officials.

9 ~~—— (g) A registered transient accommodations broker tax~~
10 ~~collection agent may be required to disclose to the director the~~
11 ~~names or addresses of any of its operators and plan managers in~~
12 ~~connection with any return, reconciliation, payment, or other~~
13 ~~filing by the registered transient accommodations broker tax~~
14 ~~collection agent under this chapter; provided that such~~
15 ~~information shall remain confidential and disclosure thereof~~
16 ~~shall be prohibited as provided in section 237D-13.~~

17 ~~—— (h) (f) The registration provided for under this~~
18 ~~section shall be effective until canceled in writing.~~

19 A registered transient accommodations broker tax collection
20 agent may cancel its registration under this section by
21 delivering written notice of cancellation to the director and
22 each of its ~~short-term rental lodging operators and plan~~
23 ~~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 transient accommodations broker
4 tax collection agent's registration under this section for any
5 cause, including but not limited to any violation of this
6 chapter or rules adopted pursuant thereto, or for violation of
7 any applicable tax collection agreement, by delivering written
8 notice of cancellation to the transient accommodations broker
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10 effective date of cancellation.

11 (~~ig~~) All registered transient accommodations broker tax
12 collection agents ~~shall inquire and ensure that the transient~~
13 ~~accommodation is in compliance with all pertinent state and~~
14 ~~county land use laws, including but not limited, prior to~~
15 ~~Prior to placing publishing~~ an advertisement, including an
16 online advertisement, on the availability of a property for
17 lease or rent on behalf of ~~ana~~ short-term rental lodging
18 operator ~~or plan manager, notifying:~~

19 (1) ~~Shall notify the short-term rental lodging operator ~~or~~~~
20 ~~plan manager~~ that the subject property is required to
21 be in compliance with applicable state and county land
22 use laws prior to retaining the services of the
23 transient accommodations broker;

1 (2) ~~Requiring~~ Shall require the short-term rental lodging
2 operator ~~or plan manager to display or make available~~
3 ~~its transient accommodation tax registration~~
4 ~~identification number and to provide the transient~~
5 accommodations broker with the short-term rental
6 lodging operator's transient accommodations number,~~7~~
7 ~~along with other~~ and local contact information
8 required under section 237D-4, and include such
9 information in ~~any~~the advertisement, in compliance
10 with section 237D-4; and

11 (3) ~~Requiring the~~ Shall require the short-term rental
12 lodging operator ~~or plan manager~~ to provide the
13 transient accommodations broker with verification of
14 compliance with county land use laws in the form of a
15 written certification, verification, or permit issued
16 by the appropriate county agency.

17 A transient accommodations broker shall remove any advertisement
18 published through the transient accommodations broker, including
19 an online advertisement, for a transient accommodation located
20 in the State for which the ~~short-term rental lodging operator~~~~or~~
21 ~~plan manager~~ fails to comply with paragraph (2) or (3) or for
22 which the transient accommodations broker has received written
23 notice from a state or local governmental authority that the

1 short-term rental lodging operator ~~or plan manager~~ has failed to
2 comply with applicable land use, zoning, or tax requirements."

3 ~~SECTION 4.~~ SECTION 4. Section 237D-1, Hawaii Revised
4 Statutes, is amended by adding two new definitions to be
5 appropriately inserted and to read as follows:

6 "Dwelling unit" shall have the same meaning as in section
7 521.8

8 "Short-term rental lodging" means the accessory or
9 secondary use of a residential dwelling unit or portion thereof
10 by an operator to provide room or space to lodgers for less than
11 one hundred eighty consecutive days for each letting. All short-
12 term rental lodgings constitute transient accommodations."

13 SECTION 5. By January 1, 2018, the director of taxation
14 shall make available to transient accommodations brokers a form
15 of application for registration as a transient accommodations
16 broker tax collection agent under the new section of chapter
17 237, Hawaii Revised Statutes, added by section 2 of this Act,
18 and under the new section of chapter 237D, Hawaii Revised
19 Statutes, added by section 3 of this Act.

20 SECTION ~~5~~6. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held
22 invalid, the invalidity does not affect other provisions or
23 applications of the Act that can be given effect without the

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1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION ~~67~~. New statutory material is underscored.

4 SECTION ~~78~~. This Act shall take effect upon its approval
5 and shall apply to taxable years beginning after December 31,
6 2017.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that, under certain
2 circumstances, allowing a private person to act as a tax
3 collection agent is likely to ease the burden of collecting
4 taxes. Section 237-9, Hawaii Revised Statutes, allows a person
5 engaged in network marketing, multi-level marketing, or other
6 similar business to enter into an agreement with the department
7 of taxation to act as a tax collection agent on behalf of its
8 direct sellers. The legislature finds that similarly allowing a
9 transient accommodations broker to act as a tax collection agent
10 on behalf of operators of short-term rental lodging that utilize
11 the services of the transient accommodations broker may
12 facilitate the collection of transient accommodations taxes and
13 general excise taxes.

14 The legislature further finds that, to increase
15 transparency and ensure the veracity of the taxes being
16 collected, transient accommodations brokers acting as tax
17 collectors must provide pertinent information to the department
18 of taxation about the short-term rental lodging operators on
19 whose behalf they collect taxes.

1 The purpose of this Act is to allow a transient
2 accommodations broker to register to act as a tax collection
3 agent with respect to transient accommodations taxes and general
4 excise taxes for its short-term rental lodging operators in a
5 manner that recognizes the dynamic changes that are occurring in
6 the transient accommodations business.

7 This Act is not intended to preempt or otherwise limit the
8 authority of the counties to adopt, monitor, and enforce local
9 land use regulations, nor is this Act intended to transfer the
10 authority to monitor and enforce such regulations away from the
11 counties.

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

15 "**§237- Transient accommodations broker as tax collection**
16 **agent.** (a) The director of taxation may permit a transient
17 accommodations broker to register as a tax collection agent on
18 behalf of all of its short-term rental lodging operators by
19 entering into a tax collection agreement with the director or by
20 submitting a transient accommodations broker tax collection
21 agent registration statement to the director. Any tax
22 collection agreement entered into pursuant to this section shall
23 be subject to and in accordance with all applicable provisions
24 of state and local law and shall not permit a transient

1 accommodations broker tax collection agent, nor any short-term
2 rental lodging operator conducting business through the
3 transient accommodations broker tax collection agent, to opt out
4 of any requirements or obligations under state or local law.

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

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16 registration statement, in a form prescribed by the department.
17 The registration shall be valid only for the transient
18 accommodations broker tax collection agent in whose name it is
19 issued, and for the website or platform designated therein, and
20 shall not be transferable.

21 A registered transient accommodations broker tax collection
22 agent shall be issued separate certificates of registration
23 under this chapter with respect to taxes payable on behalf of
24 its short-term rental lodging operators in its capacity as a

1 registered transient accommodations broker tax collection agent
2 and, if applicable, with respect to any taxes payable under this
3 chapter for its own business activities. A registered transient
4 accommodations broker tax collection agent shall file periodic
5 returns in accordance with section 237-30 and annual returns in
6 accordance with section 237-33. The reporting information shall
7 include but not be limited to the name, address, and general
8 excise tax number of each short-term rental lodging operator
9 during the applicable period.

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

22 (c) The registered transient accommodations broker tax
23 collection agent's short-term rental lodging operators shall
24 obtain licensure under this chapter and, from the date of the

1 broker's registration until the registration is canceled as
2 provided in subsection (f), shall remain subject to the
3 requirements of title 14 except for the tax remittance and
4 reporting obligations assumed by the transient accommodations
5 broker tax collection agent pursuant to this section for
6 business activity conducted directly through the agent, and
7 shall remain subject to all county, city, and town laws or
8 ordinances, and rules and regulations thereunder, regulating
9 short-term rentals, vacation rentals, or bed and breakfast
10 lodging within their jurisdictions. For purposes of any other
11 business activity, the short-term rental lodging operators are
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13 and town laws or ordinances, and rules and regulations
14 thereunder, regulating short-term rentals, vacation rentals, or
15 bed and breakfast lodging within their jurisdictions as if this
16 section did not exist.

17 (d) A transient accommodations broker tax collection agent
18 shall be personally liable for the taxes imposed by this chapter
19 that are due and collected on behalf of short-term rental
20 lodging operators, if taxes are collected, but not reported or
21 paid, together with penalties and interest as provided by law.

22 (e) All returns and other information provided by a
23 registered transient accommodations broker tax collection agent,
24 including the application for registration as a transient

1 accommodations broker tax collection agent or any tax collection
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3 prohibited as provided in section 237-34; provided that all
4 returns and the names and addresses provided by a registered
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6 disclosed to duly authorized county tax and permitting and
7 planning officials.

8 (f) The registration provided for under this section shall
9 be effective until canceled in writing.

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20 any applicable tax collection agreement, by delivering written
21 notice of cancellation to the transient accommodations broker
22 tax collection agent not later than ninety days prior to the
23 effective date of cancellation.

24 (g) For the purposes of this section:

1 "Director" means the director of taxation.

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

3 "Short-term rental lodging" 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 (h) All registered transient accommodations broker tax
8 collection agents, prior to publishing an advertisement,
9 including an online advertisement, on the availability of a
10 property for lease or rent on behalf of a short-term rental
11 lodging operator:

12 (1) Shall notify the short-term rental lodging operator
13 that the subject property is required to be in
14 compliance with applicable state and county land use
15 laws prior to retaining the services of the transient
16 accommodations broker;

17 (2) Shall require the short-term rental lodging operator
18 to provide the transient accommodations broker with
19 the short-term rental lodging operator's transient
20 accommodations number and local contact information
21 required under section 237D-4, and include such
22 information in the advertisement, in compliance with
23 section 237D-4; and

1 (3) Shall require the short-term rental lodging operator
2 to provide the transient accommodations broker with
3 verification of compliance with county land use laws
4 in the form of a written certification, verification,
5 or permit issued by the appropriate county agency.

6 A transient accommodations broker shall remove any advertisement
7 published through the transient accommodations broker, including
8 an online advertisement, for a transient accommodation located
9 in the State for which the short-term rental lodging operator
10 fails to comply with paragraph (2) or (3) or for which the
11 transient accommodations broker has received written notice from
12 a state or local governmental authority that the short-term
13 rental lodging operator has failed to comply with applicable
14 land use, zoning, or tax requirements."

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

18 "**§237D- Transient accommodations broker as tax**
19 **collection agent.** (a) The director may permit a transient
20 accommodations broker to register as a tax collection agent on
21 behalf of all of its short-term rental lodging operators by
22 entering into a tax collection agreement with the director or by
23 submitting a transient accommodations broker tax collection
24 agent registration statement to the director. Any tax

1 collection agreement entered into pursuant to this section shall
2 be subject to and in accordance with all applicable provisions
3 of state and local law and shall not permit a transient
4 accommodations broker tax collection agent, nor any short-term
5 rental lodging operator conducting business through the
6 transient accommodations broker tax collection agent, to opt out
7 of any requirements or obligations under state or local law.

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

15 The director shall issue a certificate of registration or
16 letter of denial within thirty days after a transient
17 accommodations broker submits to the director a completed and
18 signed transient accommodations broker tax collection agent
19 registration statement, in a form prescribed by the department.

20 The registration shall be valid only for the transient
21 accommodations broker tax collection agent in whose name it is
22 issued, and for the website or platform designated therein, and
23 shall not be transferable.

1 A registered transient accommodations broker tax collection
2 agent shall be issued separate certificates of registration
3 under this chapter with respect to taxes payable on behalf of
4 its short-term rental lodging operators in its capacity as a
5 registered transient accommodations broker tax collection agent
6 and, if applicable, with respect to any taxes payable under this
7 chapter for its own business activities. A registered transient
8 accommodations broker tax collection agent shall file periodic
9 returns in accordance with section 237D-6 and annual returns in
10 accordance with section 237D-7. The reporting information shall
11 include but not be limited to the name, address, and transient
12 accommodations tax number of each short-term rental lodging
13 operator during the applicable period.

14 (b) In addition to its own responsibilities under this
15 chapter, a registered transient accommodations broker tax
16 collection agent shall report, collect, and pay over the taxes
17 due under this chapter on behalf of all of its short-term rental
18 lodging operators from the date of registration until the
19 registration is canceled as provided in subsection (f); provided
20 that the registered transient accommodations broker tax
21 collection agent's obligation to report, collect, and pay taxes
22 on behalf of all of its short-term rental lodging operators
23 shall apply solely to transient accommodations in the State

1 arranged or booked directly through the registered transient
2 accommodations broker tax collection agent.

3 (c) The registered transient accommodations broker tax
4 collection agent's short-term rental lodging operators shall
5 obtain registration under this chapter and, from the date of the
6 broker's registration until the registration is canceled as
7 provided in subsection (f), shall remain subject to the
8 requirements of title 14 except for the tax remittance and
9 reporting obligations assumed by the transient accommodations
10 broker tax collection agent pursuant to this section for
11 business activity conducted directly through the agent, and
12 shall remain subject to all county, city, and town laws or
13 ordinances, and rules and regulations thereunder, regulating
14 short-term rentals, vacation rentals, or bed and breakfast
15 lodging within their jurisdictions. For purposes of any other
16 business activity, the short-term rental lodging operators are
17 subject to all requirements of title 14 and all county, city,
18 and town laws or ordinances, and rules and regulations
19 thereunder, regulating short-term rentals, vacation rentals, or
20 bed and breakfast lodging within their jurisdictions as if this
21 section did not exist.

22 (d) A transient accommodations broker tax collection agent
23 shall be personally liable for the taxes imposed by this chapter
24 that are due and collected on behalf of short-term rental

1 lodging operators, if taxes are collected, but not reported or
2 paid, together with penalties and interest as provided by law.

3 (e) All returns and other information provided by a
4 registered transient accommodations broker tax collection agent,
5 including the application for registration as a transient
6 accommodations broker tax collection agent or any tax collection
7 agreement, shall be confidential and disclosure thereof shall be
8 prohibited as provided in section 237D-13; provided that all
9 returns and the names and addresses provided by a registered
10 transient accommodations broker tax collection agent shall be
11 disclosed to duly authorized county tax and permitting and
12 planning officials.

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

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

21 The director may cancel a transient accommodations broker
22 tax collection agent's registration under this section for any
23 cause, including but not limited to any violation of this
24 chapter or rules adopted pursuant thereto, or for violation of

1 any applicable tax collection agreement, by delivering written
2 notice of cancellation to the transient accommodations broker
3 tax collection agent not later than ninety days prior to the
4 effective date of cancellation.

5 (g) All registered transient accommodations broker tax
6 collection agents, prior to publishing an advertisement,
7 including an online advertisement, on the availability of a
8 property for lease or rent on behalf of a short-term rental
9 lodging operator:

10 (1) Shall notify the short-term rental lodging operator
11 that the subject property is required to be in
12 compliance with applicable state and county land use
13 laws prior to retaining the services of the transient
14 accommodations broker;

15 (2) Shall require the short-term rental lodging operator
16 to provide the transient accommodations broker with
17 the short-term rental lodging operator's transient
18 accommodations number and local contact information
19 required under section 237D-4, and include such
20 information in the advertisement, in compliance with
21 section 237D-4; and

22 (3) Shall require the short-term rental lodging operator
23 to provide the transient accommodations broker with
24 verification of compliance with county land use laws

1 in the form of a written certification, verification,
2 or permit issued by the appropriate county agency.

3 A transient accommodations broker shall remove any advertisement
4 published through the transient accommodations broker, including
5 an online advertisement, for a transient accommodation located
6 in the State for which the short-term rental lodging operator
7 fails to comply with paragraph (2) or (3) or for which the
8 transient accommodations broker has received written notice from
9 a state or local governmental authority that the short-term
10 rental lodging operator has failed to comply with applicable
11 land use, zoning, or tax requirements."

12 SECTION 4. Section 237D-1, Hawaii Revised Statutes, is
13 amended by adding two new definitions to be appropriately
14 inserted and to read as follows:

15 "Dwelling unit" shall have the same meaning as in section
16 521.8

17 "Short-term rental lodging" means the accessory or
18 secondary use of a residential dwelling unit or portion thereof
19 by an operator to provide room or space to lodgers for less than
20 one hundred eighty consecutive days for each letting. All short-
21 term rental lodgings constitute transient accommodations."

22 SECTION 5. By January 1, 2018, the director of taxation
23 shall make available to transient accommodations brokers a form
24 of application for registration as a transient accommodations

1 broker tax collection agent under the new section of chapter
2 237, Hawaii Revised Statutes, added by section 2 of this Act,
3 and under the new section of chapter 237D, Hawaii Revised
4 Statutes, added by section 3 of this Act.

5 SECTION 6. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 7. New statutory material is underscored.

12 SECTION 8. This Act shall take effect upon its approval
13 and shall apply to taxable years beginning after December 31,
14 2017.

SUMMARY OF PROPOSED REVISIONS

1. General/throughout: Limited HB 1471 to secondary or accessory use of dwelling units, aka alternative lodging. This change was incorporated to clarify this bill's application to accessory use of dwelling units, and not to hotels and other traditional transient accommodations.
2. Section 2, subsection (a) to Section 237- (GET) and Section 3, subsection (a) to Section 237D- (TAT): Clarified that separate tax agreements must be subject to all applicable laws and cannot serve as a vehicle for opting out of legal requirements. Also fixed references in Section 2 (GET) to periodic and annual return statute sections. These should have been to chapter 237 (GET), not chapter 237D (TAT).
3. Section 2, subsections (c) and (d) to Section 237- (GET) and Section 3, subsections (c) and (d) to Section 237D- (TAT): These sections were deleted and revised. They were deleted to avoid a potential interpretation which would lead to State preemption of county ordinances and regulations. The revisions clarify that (a) the obligations assumed by broker tax collection agents are limited to tax collection, remittance, and reporting, and (b) operators must still register and comply with other obligations including county land use ordinances and regulations.
4. Section 2, subsection (f) to Section 237- (GET) and Section 3, subsection (f) to Section 237D- (TAT): These subsections (f) are now respective subsection (e)s in the clean version. Added requirement that names and addresses be disclosed to duly authorized county tax and permitting and planning officials. This data transparency is needed for enforcement.
5. Section 2, subsection (g) to Section 237- (GET) and Section 3, subsection (g) to Section 237D- (TAT): Deleted this provision allowing the director to require disclosure of operator names and addresses. Operator names and addresses are already required to be reported under the respective subsection (a)s, making the respective subsection (g)s unnecessary and confusing.
6. Section 2, subsection (i) to Section 237- (GET): This is now subsection (g) in the clean version. Took out "plan manager" definition, which is not needed because scope is limited to short-term rental lodging in the revisions. Added "short-term rental lodging" definition.
7. Section 2, subsection (j) to Section 237- (GET) and Section 3, subsection (i) to Section 237D- (TAT): Now subsection (h) in Section 2 and subsection (g) in Section 3 in the clean version. As drafted in proposed SD 1, this provision would have difficulty passing muster under the Communications Decency Act and would require brokers/tax collection agents to enforce county laws. The revisions were made for greater defensibility under the Communications Decency Act, based on broker/tax collection agent's material contributions to illegal/unpermitted rentals, and to make compliance with land use laws the operator's rather than broker's responsibility.
8. Section 4: Added to define "short-term rental lodging," which was necessary to limit scope of HB 1471 to alternative lodging.