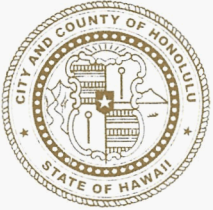


**DEPT. COMM. NO. 422**

**OFFICE OF THE CITY CLERK**

CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 100  
HONOLULU, HAWAII 96813-3077  
TELEPHONE: (808) 768-3810 • FAX: (808) 768-3835



**GLEN I. TAKAHASHI**  
CITY CLERK

February 13, 2019

The Honorable Ron Kouchi, President  
and Members of the State Senate  
Twenty-Sixth State Legislature  
Hawaii State Capitol, Room 409  
415 South Beretania Street  
Honolulu, Hawaii 96813

The Honorable Scott Saiki, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
Hawaii State Capitol, Room 431  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki and Members of the Legislature:

This is to inform you that Resolution 19-24, urging the Hawaii State Legislature to enact legislation to enable the counties to access transient accommodations tax records relating to transient vacation units and bed and breakfast homes, was adopted by the Council of the City and County of Honolulu at its meeting on Wednesday, February 13, 2019.

As directed by the Resolution, two (2) copies are attached for your information and consideration.

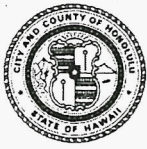
Sincerely,



**GLEN I. TAKAHASHI**  
City Clerk

II

Attachments



RESOLUTION

URGING THE HAWAII STATE LEGISLATURE TO ENACT LEGISLATION TO ENABLE THE COUNTIES TO ACCESS TRANSIENT ACCOMMODATIONS TAX RECORDS RELATING TO TRANSIENT VACATION UNITS AND BED AND BREAKFAST HOMES.

WHEREAS, the demand for short-term rentals or vacation rentals, specifically, the use of dwellings in residential districts for stays of less than 30 days, has grown significantly in the state of Hawaii; and

WHEREAS, the use of social media and online booking services have dramatically increased both the marketing visibility of these types of short-term rentals and the number of available properties for visitors to consider for accommodation use during their vacations; and

WHEREAS, according to the City and County of Honolulu ("City") Administration, based on on-line advertising inventory, there can be anywhere between 8,000 to 10,000 dwelling units available at any given time on Oahu, illustrating the expansion of the non-traditional visitor accommodation market; and

WHEREAS, this burgeoning growth of the short-term rental market can result in negative impacts upon the hosting neighborhood, such as increased noise during late night hours, illegal parking, congested traffic, and escalating property values, as homes are priced and bought not for domiciliary purposes but as income-producing investments; and

WHEREAS, while some property owners are operating legal transient vacation units ("TVUs") or Bed and Breakfast Homes ("B&Bs") that are properly permitted, there are a growing number of property owners who are circumventing existing regulatory controls by claiming their property is wholly used for residential use when it is actually primarily or partly used, on a continual basis, as a TVU or B&B; and

WHEREAS, many neighboring property owners contend that this illegal use of residential property imposes a burden on their quality of life with adverse effects upon residents' health and safety; and

WHEREAS, the counties have faced challenges in enforcing local zoning regulations as it can be difficult to prove and document that a property is being used legally or illegally as a TVU or B&B, even when identified and reported by frustrated proximate neighbors; and



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## RESOLUTION

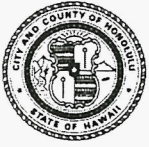
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WHEREAS, many short-term rental property owners remit transient accommodations tax ("TAT") to the State and if the City were to be provided with this taxpayer information, the City's ability to identify illegally operated TVUs and B&Bs would be greatly enhanced; and

WHEREAS, Section 237D-13, Hawaii Revised Statutes, provides the State Department of Taxation ("DOTAX") with limited ability to discuss taxpayer information with third parties, including other government entities, and DOTAX has provided public testimony stating that it is their belief that under current State law, "With regard to illegal vacation units, the purposes for which counties are seeking tax information is to enforce zoning laws—not tax laws. Thus, the counties have no legitimate tax purpose for taxpayer information."; and

WHEREAS, amending State law to enable the counties to access State TAT records would be an effective, complementary tool to augment current City enforcement efforts against illegally operated TVUs and B&Bs; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the Hawaii State Legislature to enact legislation (attached as "Exhibit A") to enable the counties to access transient accommodations tax records relating to transient vacation units and bed and breakfast homes; and



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 19-24

**RESOLUTION**

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the President of the Hawaii State Senate, the Speaker of the Hawaii State House of Representatives, the Governor of the State of Hawaii, the Director of the State Department of Taxation, the Mayor, the Managing Director, the Director of Budget and Fiscal Services, and the Director of Planning and Permitting.

INTRODUCED BY:

*Heidi Tsuneyoshi*  
*H. A. Anderson*

DATE OF INTRODUCTION:

**FEB 7 2019**

Honolulu, Hawaii

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Councilmembers

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1           SECTION 1. Section 237D-13, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) All tax returns and return information required to be  
4 filed under this chapter, and the report of any investigation of  
5 the return or of the subject matter of the return, shall be  
6 confidential. It shall be unlawful for any person or any  
7 officer or employee of the State, including the auditor or the  
8 auditor's agent with regard to tax return information obtained  
9 pursuant to section 23-5(a), to intentionally make known  
10 information imparted by any tax return or return information  
11 filed pursuant to this chapter, or any report of any  
12 investigation of the return or of the subject matter of the  
13 return, or to wilfully permit any return, return information, or  
14 report so made, or any copy thereof, to be seen or examined by  
15 any person; provided that for tax purposes only the taxpayer,  
16 the taxpayer's authorized agent, or persons with a material  
17 interest in the return, return information, or report may  
18 examine them. Unless otherwise provided by law, persons with a

**EXHIBIT A**

\_\_\_\_.B. NO. \_\_\_\_\_

1 material interest in the return, return information, or report  
2 shall include:  
3 (1) Trustees;  
4 (2) Partners;  
5 (3) Persons named in a board resolution or a one per cent  
6 shareholder in the case of a corporate return;  
7 (4) The person authorized to act for a corporation in  
8 dissolution;  
9 (5) The shareholder of an S corporation;  
10 (6) The personal representative, trustee, heir, or  
11 beneficiary of an estate or trust in the case of the estate's or  
12 decedent's return;  
13 (7) The committee, trustee, or guardian of any person in  
14 paragraphs (1) through (6) who is incompetent;  
15 (8) The trustee in bankruptcy or receiver, and the  
16 attorney-in-fact of any person in paragraphs (1) through (7);  
17 (9) Persons duly authorized by the State in connection  
18 with their official duties;  
19 (10) Any duly accredited tax official of the United States,  
20 or of any state or territory, or of any county of this State;  
21 (11) The Multistate Tax Commission or its authorized  
22 representative; and

**EXHIBIT A**

\_\_\_\_.B. NO. \_\_\_\_\_

1 (12) Members of a limited liability company.  
2 Notwithstanding any provision contained in this chapter, any  
3 county official may examine tax returns and return information  
4 required to be filed under this chapter for the purpose of  
5 identifying residential homes or apartments used as transient  
6 vacation units or bed and breakfast homes in violation of county  
7 law; provided that the information may be used only for purposes  
8 of enforcement of county laws and may not be disclosed for any  
9 other purpose.

10 Any violation of this subsection shall be a class C felony.  
11 Nothing in this subsection shall prohibit the publication of  
12 statistics that are classified to prevent the identification of  
13 particular reports or returns and the items of the reports or  
14 returns."

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on July 1, 2019.

18

19 INTRODUCED BY: \_\_\_\_\_

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

RESOLUTION 19-24

Introduced: 02/07/19 By: HEIDI TSUNEYOSHI Committee: COUNCIL  
IKAIKA ANDERSON

Title: RESOLUTION URGING THE HAWAII STATE LEGISLATURE TO ENACT LEGISLATION TO ENABLE THE COUNTIES TO ACCESS TRANSIENT ACCOMMODATIONS TAX RECORDS RELATING TO TRANSIENT VACATION UNITS AND BED AND BREAKFAST HOMES.

Voting Legend: \* = Aye w/Reservations

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CC-41 TSUNEYOSHI – REFERRAL OF RESOLUTION 19-24 FROM COMMITTEE ON PARKS, COMMUNITY SERVICES AND INTERGOVERNMENTAL AFFAIRS DIRECT TO COUNCIL FLOOR.

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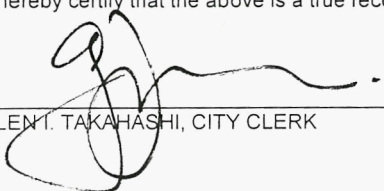
02/13/19 COUNCIL

RESOLUTION 19-24 WAS ADOPTED.

9 AYES: ANDERSON, ELEFANTE, FORMBY, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI.

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I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.

  
\_\_\_\_\_  
GLEN I. TAKAHASHI, CITY CLERK

  
\_\_\_\_\_  
ANN H. KOBAYASHI, INTERIM CHAIR AND PRESIDING OFFICER