

1 "Department" means the department of commerce and consumer
2 affairs.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Dwelling" means:

- 6 (1) A single-family dwelling unit;
- 7 (2) A multi-family dwelling unit;
- 8 (3) A bed and breakfast establishment or bed and breakfast
9 home; or
- 10 (4) A "unit" defined in section 514B-3 that is not part of
11 a hotel-condominium defined in section 486K-1.

12 "Let" means to rent a transient vacation rental for
13 compensation or fees.

14 "Local contact" means the owner or an operator, lessee, or
15 any individual or company contracted by the owner, operator, or
16 lessee, residing on or having a principal place of business on
17 the same island where the transient vacation rental property is
18 located who shall be available on a twenty-four-hour, seven-
19 days-per-week basis.

20 "Lodging" means temporary sleeping accommodations in a
21 dwelling or portion of a dwelling.



1 "Nongovernmental entity" includes an association of
2 homeowners, a community association, and board or board of
3 directors as defined in section 514B-3.

4 "Online rental service provider" means any company,
5 organization, club, group, or application that offers a
6 transient vacation rental service via the Internet.

7 "Owner" means the grantee in the deed and instrument for
8 the transient vacation rental recorded in the bureau of
9 conveyances.

10 "Transient vacation rental" means a dwelling or lodging
11 located in the State let by an owner, operator, or lessee for
12 compensation or fees, including club fees, for one hundred
13 eighty days or less per rental. Transient vacation rental does
14 not include any facility owned or used by a government agency or
15 a tenement home, group home, group residence, group living
16 arrangement, boarding house, or rooming house certified pursuant
17 to section 445-94.

18 § -2 Powers and duties of the director. In addition to
19 any other powers and duties authorized by law, the director may:

20 (1) Grant licenses to transient vacation rental owners
21 pursuant to this chapter;



1 (2) Adopt, amend, or repeal rules as the director deems
2 proper to fully effectuate this chapter;

3 (3) Fine, suspend, terminate, or revoke any license for
4 any cause prescribed by this chapter, or for any
5 violation of the rules, and refuse to grant any
6 license for any cause which would be grounds for
7 revocation, termination, or suspension of a license;
8 and

9 (4) Investigate the actions of any unlicensed person
10 acting or alleged to be acting in the capacity of a
11 licensee under this chapter.

12 § -3 License; requirements; renewal. (a) No transient
13 vacation rental shall operate or do business in this State
14 unless the owner first obtains a license under this chapter.
15 The application for a license shall be submitted on forms
16 prescribed by the director and with the appropriate fees,
17 prescribed by the director, which shall be deposited into the
18 compliance resolution fund under section 26-9(o).

19 (b) The application shall include:

20 (1) The address and tax map key number of the transient
21 vacation rental;



- 1 (2) The name, address, and contact information of the
2 owner of the transient vacation rental;
- 3 (3) The name, phone number, and address of the local
4 contact for the transient vacation rental;
- 5 (4) The name, address, and contact information of any
6 nongovernmental entity with authority over the
7 property on which the transient vacation rental is
8 located, along with a copy of the covenants, by-laws,
9 and administrative provisions with which compliance of
10 the transient vacation rental is required;
- 11 (5) Proof of compliance with county ordinances relating to
12 the regulation of transient vacation rentals,
13 including any registration number, license, permit,
14 special use permit, or non-conforming use permit that
15 may be required by the county;
- 16 (6) The account number and the name of the financial
17 institution at which the client trust account required
18 by section -6 is held;
- 19 (7) Submission of:
 - 20 (A) The general excise tax license number issued
21 pursuant to chapter 237;



1 (B) The transient accommodations tax registration
2 number issued pursuant to chapter 237D; and
3 (C) The general excise tax and transient
4 accommodations tax filings for the previous two
5 years, for any transient vacation rental existing
6 on the effective date of Act , Session Laws of
7 Hawaii 2019, of which the applicant is the owner;
8 and

9 (8) The name of the application or app, name of the online
10 rental service provider or providers, address of any
11 website on the Internet, or other means of mass
12 communications being utilized for advertisements or
13 solicitations of the transient vacation rental.

14 The owner shall notify the department within sixty days of any
15 change in the information required by this subsection.

16 (c) The owner of a transient vacation rental shall renew
17 its license each year on or before December 31 on a form
18 provided by the department, which shall provide the owner an
19 opportunity to verify or update the information required in
20 subsection (b).



1 (d) No license may be assigned, sold, leased, encumbered,
2 or otherwise transferred, except upon the written application to
3 and approval by the director.

4 § -4 Issuance of license and seal; provision of
5 information to the county. (a) Each license shall be in a form
6 prescribed and signed by the director, and issued in the name of
7 the department with an official seal as evidence of the validity
8 of the license.

9 (b) The department shall maintain and annually update a
10 list of the licensed transient vacation rentals, and shall
11 provide each county agency charged with the administration of
12 county zoning laws all the information required by section -3
13 regarding the transient vacation rentals licensed in the county.

14 (c) The director shall provide each county agency charged
15 with the administration of county zoning laws regarding
16 transient vacation rentals licensed in the county any
17 information obtained from an online rental service provider
18 under section -10, as deemed necessary by the director.

19 § -5 Transient vacation rentals; requirements. (a) The
20 owner or lessor of a transient vacation rental shall:



- 1 (1) Prominently post the name and phone number of the
2 local contact in the transient vacation rental, and
3 include the information in any transient vacation
4 rental contract or rental agreement; and
- 5 (2) Include the license number and official seal of the
6 transient vacation rental in any advertisements or
7 solicitations of the transient vacation rental through
8 an online rental service provider, an application or
9 app, or other means of mass communication.
- 10 (b) The owner shall submit to the applicable
11 nongovernmental entity all covenants, bylaws, and administrative
12 provisions with which the owner's compliance is required for the
13 property on which the transient vacation rental is located,
14 along with the following:
- 15 (1) The address of the transient vacation rental;
- 16 (2) The name, address, and contact information of the
17 owner of the transient vacation rental, and license
18 number of the transient vacation rental; and
- 19 (3) The name, phone number, and address of the local
20 contact, who shall be available on a twenty-four-hour,
21 seven-days-per-week basis.



1 The owner shall notify and provide updated information to the
2 nongovernmental entity within sixty calendar days of any change
3 in the required information.

4 (c) The owner shall comply with all county ordinances
5 relating to the posting of information in the transient vacation
6 rental, posting of signs, provision of safety information,
7 parking, notification of neighbors, and other requirements
8 established by the county.

9 § -6 Client trust account. (a) Each owner of a
10 transient vacation rental licensed under this chapter shall
11 establish a client trust account in a federally insured
12 financial institution located in Hawaii into which shall be
13 deposited all sums received from a consumer for transient
14 vacation rental services. The trust account shall be
15 established and maintained for the protection of the consumers
16 paying the money to the owner of the transient vacation rental.
17 The moneys in the account shall not be encumbered except for
18 partial or full payment for the provision of the transient
19 vacation rental purchased or to make refunds for services not
20 performed, less any amounts for cancellation fees that were
21 previously disclosed to the consumer.



1 (b) The owner of a transient vacation rental shall
2 maintain all books and records necessary to comply with this
3 chapter and the rules adopted by the department. The owner shall
4 keep and maintain for a period of at least two years copies of all
5 bank statements, deposit slips, canceled checks, drafts, and wire
6 or electronic transaction documents relating to client trust
7 accounts. The owner shall make such records available for
8 inspection and audit within three business days of a written
9 request by the director or any county officer or agency charged
10 with the administration of county zoning laws or the licensing
11 of transient vacation rentals.

12 § -7 Prohibited acts. (a) No owner of a transient
13 vacation rental shall:

- 14 (1) Sell or advertise a transient vacation rental located
15 in the State of Hawaii without first being licensed by
16 the director under this chapter and including the
17 license number and official seal in any advertisement
18 or solicitation of the transient vacation rental;
- 19 (2) Conduct business as a licensed transient vacation
20 rental without establishing and maintaining a client
21 trust account, as required in section -6; or



1 (3) Otherwise violate any of the provisions of this
2 chapter or rules adopted pursuant to this chapter.

3 (b) Any advertisement or written, graphic, or oral
4 statement in connection with the solicitation of business for a
5 transient vacation rental through an online rental service
6 provider, an application or app, or other means of mass
7 communication is prima facie evidence of the selling,
8 advertising, or conducting of business of a transient vacation
9 rental.

10 § -8 Enforcement; inspection. (a) The director may
11 contract with qualified persons, including investigators, who
12 shall be exempt from chapter 76, or delegate to the agency
13 charged with the administration of county zoning laws to enforce
14 this chapter.

15 (b) The officer or agent of the department or officer or
16 agent of the agency charged with the administration of county
17 zoning laws delegated by the department to enforce this chapter
18 shall have the power to serve and execute warrants or issue
19 citations to enforce this chapter.

20 (c) Any employee or agent of the department or officer or
21 agent of the county charged with the administration of county



1 zoning laws delegated by the department to enforce this chapter
2 or the terms and conditions for licensing of transient vacation
3 rentals under this chapter, upon written notification to the
4 owner or local contact for the transient vacation rental, may
5 enter upon, cross over, be upon, or remain upon privately owned
6 land for the purpose of:

7 (1) Investigating and enforcing the compliance of the
8 transient vacation rental with this chapter; and

9 (2) Investigating and enforcing the compliance of the
10 vacation rental with the ordinances of the county in
11 which the transient vacation rental is located.

12 (d) The employee or agent of the department or officer or
13 agent of the county charged with the administration of county
14 zoning laws delegated by the department to enforce this chapter
15 shall have the powers and duties deemed necessary for the
16 efficient and effective enforcement of this chapter. Whenever
17 the employee or agent of the department or officer or agent of
18 the county is refused entry upon land or to a building for the
19 purpose of inspection under this section, the department or
20 county may file a complaint in the district court of the circuit
21 in which the land or building is located. The court may issue a



1 warrant, directed to any police officer of the circuit,
2 commanding the police officer to render sufficient assistance to
3 the employee or agent.

4 (e) Whenever an illegal operation is discovered by an
5 inspection under this section:

6 (1) The court of the circuit in which the land or building
7 is located may issue a writ of injunction to abate and
8 prevent the continuance of the illegal operation; and

9 (2) The owner shall be required to pay an amount estimated
10 to be necessary to cover the actual expenses of the
11 inspection.

12 (f) The department or the county agency delegated to
13 enforce this chapter shall establish by rule a fee schedule of
14 reasonable expenses, which may include expenses for travel time
15 and costs, time for the inspection of transient vacation
16 rentals, and administrative costs for the enforcement of
17 compliance with applicable state and county laws and ordinances.

18 (g) The penalties and fees for expenses collected by a
19 county agency delegated by the department to enforce this
20 chapter shall be realizations of the county enforcing this
21 chapter to be deposited into a fund, established by the county



1 agency delegated by the department to enforce this chapter, for
2 the purpose of enforcing this chapter. The revenues from the
3 penalties and fees collected by the county enforcing this
4 chapter shall be deemed to satisfy article VIII, section 5, of
5 the state constitution.

6 § -9 **Penalty.** Any owner of a transient vacation rental
7 who fails to comply with this chapter shall be issued a warning
8 by the director or an agent of the county agency charged with
9 the enforcement of this chapter and subject to a civil penalty
10 of \$2,000 for each separate offense; provided that any owner who
11 fails to comply with this chapter after:

12 (1) An initial warning has been issued shall be issued a
13 second warning, assessed a civil penalty of \$5,000 for
14 each separate offense, and subject to the suspension
15 of a license issued under section -3; and

16 (2) A second or subsequent warning has been issued shall
17 be subject to revocation of a license issued under
18 section -3, assessed a civil penalty of \$10,000 for
19 each separate offense, and subject to a lien being
20 placed on the property used as a transient vacation
21 rental.



1 § -10 Online rental service provider; requirements. (a)

2 Any online rental service provider currently operating or doing
3 business in this State, or wishing to operate or do business in
4 this State, shall be required to sign a memorandum of agreement
5 with the State regarding the requirements of this chapter. The
6 memorandum of agreement shall include:

7 (1) A requirement for the online rental service provider
8 to provide the director with the name of the owner of
9 a transient vacation rental, or the name of the
10 business if the owner is a business, and the address
11 of the transient vacation rental;

12 (2) A mechanism for the director to contact the online
13 rental service provider to request further information
14 on any advertisement in connection with the
15 solicitation of business for a transient vacation
16 rental through the online rental service provider that
17 is suspected of violating the requirements of this
18 chapter; and

19 (3) Provisions allowing for the director to share
20 information the director deems necessary with the
21 county agency charged with the enforcement of this



1 chapter in the county in which the transient vacation
2 rental is located.

3 (b) The director shall notify, in writing, any online
4 rental service provider currently operating or doing business in
5 this State, or wishing to operate or do business in this State,
6 of the licensure requirements contained in this chapter and
7 shall provide a copy of any rules adopted to fully effectuate
8 this chapter to the online rental service provider."

9 SECTION 3. Section 237D-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "transient accommodations"
11 to read as follows:

12 "Transient accommodations" means the furnishing of a room,
13 apartment, suite, single family dwelling, or the like to a
14 transient for less than one hundred eighty consecutive days for
15 each letting in a hotel, apartment hotel, motel, condominium or
16 unit as defined in chapter 514B, cooperative apartment, dwelling
17 unit, or rooming house that provides living quarters, sleeping,
18 or housekeeping accommodations, condominium hotel as defined in
19 section 467-30, transient vacation rental as defined in section
20 -1, or other place in which lodgings are regularly furnished
21 to transients."



1 SECTION 4. Section 237D-16, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The director of taxation shall administer and enforce
4 this chapter. In respect of:

5 (1) The examinations of books and records and of taxpayers
6 and other persons,

7 (2) Procedure and powers upon failure or refusal by a
8 taxpayer to make a return or proper return, and

9 (3) The general administration of this chapter,
10 the director of taxation shall have all rights and powers
11 conferred by chapter 237 with respect to taxes thereby or
12 thereunder imposed; and, without restriction upon these rights
13 and powers, sections 237-8 and 237-36 to [~~237-41~~] 237-41.5 are
14 made applicable to and with respect to the taxes, taxpayers, tax
15 officers, and other persons, and the matters and things affected
16 or covered by this chapter, insofar as not inconsistent with
17 this chapter, in the same manner, as nearly as may be, as in
18 similar cases covered by chapter 237."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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JAN 24 2019



H.B. NO. 1348

Report Title:

DCCA; Transient Vacation Rentals

Description:

Establishes licensing requirements and enforcement provisions for transient vacation rentals to be administered by the Department of Commerce and Consumer Affairs.

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

