

STAND. COM. REP. NO.

1344

Honolulu, Hawaii

MAR 15

, 2019

RE: S.B. No. 1292
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Tourism & International Affairs, to which was referred S.B. No. 1292, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TRANSIENT ACCOMMODATIONS,"

begs leave to report as follows:

The purpose of this measure is to address issues relating to transient accommodations, including the collection of Transient Accommodations Taxes and the activities of transient accommodations brokers and platform hosts by:

- (1) Expanding the definition of "transient accommodations" to include other forms of transient accommodations and terms that may be defined by the counties;
- (2) Prohibiting a hosting platform from providing booking services and collecting a booking fee in connection with Hawaii transient accommodations if the operator of the transient accommodations that is not a hotel has not complied with the certificate of registration requirements of the Department of Taxation (DOTAX);
- (3) Authorizing DOTAX to require hosting platforms to provide names and registration identification numbers for all operators for whom the hosting platform provided



booking services and all operators whose property or transient accommodations the hosting platform provided booking services;

- (4) Clarifying the required information that must be conspicuously shown on any advertisement, including online advertisement, for any transient accommodations or resort time share vacation interest, plan, or unit, including the county-level transient accommodation tax registration identification number of each advertised unit;
- (5) Requiring the operator or plan manager to remove the transient accommodations unit advertisement upon notice that the property is not in compliance with state law or county ordinance;
- (6) Deleting the provision making it a misdemeanor if a person fails to comply with the registration requirements prior to engaging or continuing in the business of furnishing transient accommodations;
- (7) Requiring transient accommodations brokers, platform hosts, and booking services to provide anonymous, monthly reports of specified information regarding transient accommodations listings to DOTAX and providing for a \$100 per day noncompliance penalty; and
- (8) Enabling transient accommodations brokers to register as DOTAX tax collection agents on behalf of their operators and plan managers for General Excise Taxes and Transient Accommodations Taxes with specified requirements, restrictions, and conditions.

The Office of Hawaiian Affairs, Hawaii Tourism Authority, Councilmember of the Kaua'i County Council, Kohala Coast Resort Association, Maui Hotel & Lodging Association, Hawai'i Lodging & Tourism Association, and Maui Chamber of Commerce supported this measure. Airbnb and a concerned individual opposed this measure. The Department of the Attorney General, DOTAX, Office of the Mayor of the County of Kaua'i, County of Kaua'i Department of Planning, City and County of Honolulu Department of Planning and Permitting, Aqua-Aston Hospitality, LLC, Expedia Group, Tax Foundation of



Hawaii, and a concerned individual submitted comments on this measure.

Your Committee has amended this measure by:

- (1) Deleting "advertising" from the definition of "booking service";
- (2) Deleting all provisions relating to booking services provided by a hosting platform to operators of transient accommodations, including DOTAX registration requirements, penalties, and DOTAX's authorization to require a hosting platform to provide operator-related information;
- (3) Restoring the current statutory language relating to the required information that must be conspicuously shown on any advertisement for transient accommodations or resort time share vacation units, including the deletion of the proposed requirements to provide the county-level transient accommodations tax registration identification number of each advertised unit and removing legally noncompliant property advertisement;
- (4) Deleting the requirement that transient accommodations brokers, platform hosts, and booking services provide anonymous, monthly reports of specified information regarding transient accommodations listings to DOTAX;
- (5) Making a person who fails to register prior to engaging or continuing in the business of furnishing transient accommodations, which includes posting any advertisement for the furnishing of a transient accommodation, subject to a citation process and monetary fines;
- (6) Making any person who enters into an agreement to furnish transient accommodations without registering with DOTAX subject to a citation and monetary fines;
- (7) Deleting the provisions authorizing the Director of Taxation to permit a transient accommodations broker to register as a tax collection agent on behalf of its operators and plan managers for General Excise Taxes and Transient Accommodations Taxes;



- (8) Requiring a hosting platform that collects fees for booking services to register as a tax collection agent on behalf of its operators and plan managers for General Excise Taxes and Transient Accommodations Taxes;
- (9) Changing its effective date to upon its approval, to encourage further discussion; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Tourism & International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1292, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1292, S.D. 2, H.D. 1, and be referred to your Committees on Consumer Protection & Commerce and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Tourism &
International Affairs,



RICHARD H.K. ONISHI, Chair



