
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

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PART I

SECTION 1. (a) Notwithstanding any provision of section 237D-6.5, Hawaii Revised Statutes, to the contrary, a county shall be eligible to receive \$ from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations and short-term vacation rentals; provided that no funds shall be released to a county until it has:

(1) Established a real property tax rate that applies only to:

- (A) Transient accommodations; or
- (B) Short-term vacation rentals occupied for a period of one hundred eighty consecutive days or less;

(2) Developed a process to expediently issue special use permits to, and collect all applicable taxes from, qualifying properties that are proposed for use as:

- (A) Transient accommodations; or



- 1 (B) Short-term vacation rentals occupied for a period
2 of one hundred eighty consecutive days or less;
- 3 (3) Established a registry to track compliance by, and any
4 complaints concerning, permittees who receive special
5 use permits pursuant to paragraph (2);
- 6 (4) Established an expedited process for addressing
7 alleged violations of zoning and special use permit
8 laws and ordinances by operators of:
- 9 (A) Transient accommodations; or
- 10 (B) Short-term vacation rentals occupied for a period
11 of one hundred eighty consecutive days or less;
- 12 (5) Established an expedited process for addressing an
13 appeal filed by a party that was denied a special use
14 permit pursuant to paragraph (2); provided that a
15 county that has not established an expedited process
16 by December 31, 2019, shall establish a process that
17 is functionally equivalent to the contested case
18 hearing process described in section 91-9, Hawaii
19 Revised Statutes;
- 20 (6) Enacted legislation that implements the conditions
21 described in paragraphs (1) through (5); and



1 (7) Through its mayor, notified the governor in writing
2 that it has complied with the conditions described in
3 paragraphs (1) through (6).

4 (b) Within thirty days of receiving written notification
5 from the mayor of a county that it has complied with the
6 conditions described in subsection (a) (1) through (6), the
7 governor shall instruct the director of finance to review
8 whether the county's compliance with the required conditions is
9 satisfactory. If the director's review indicates that the
10 county's compliance is satisfactory, the director of finance
11 shall release to the county the funds authorized in section 2 of
12 this Act; provided that the funds have not lapsed. If the
13 director's review indicates that the county's compliance with
14 the required conditions is not satisfactory, the director shall
15 communicate to the mayor of the county the results of the review
16 and shall specify the actions that the county is required to
17 take to achieve satisfactory compliance with the required
18 conditions. The release of funds to a county under this Act
19 shall not be contingent upon another county having complied with
20 the conditions described in subsection (a) (1) through (6).



1 (c) As used in this section, "transient accommodations"
2 has the same meaning as in section 237D-1, Hawaii Revised
3 Statutes.

4 SECTION 2. There is allocated out of the revenues
5 collected under chapter 237D, Hawaii Revised Statutes, before
6 any distribution to the counties under section 237D-6.5, Hawaii
7 Revised Statutes, the sum of \$ or so much thereof as may
8 be necessary for fiscal year 2019-2020 for the city and county
9 of Honolulu and the counties of Maui, Hawaii, and Kauai to
10 enforce all applicable laws and ordinances relating to transient
11 accommodations and short-term vacation rentals as established in
12 this Act; provided that no respective county shall receive more
13 than \$ from this allocation.

14 The sum allocated shall be expended by the respective
15 counties for the purposes of this Act.

16 SECTION 3. Each county receiving an allocation for the
17 enforcement of all applicable laws and ordinances relating to
18 transient accommodations and short-term vacation rentals as
19 established in this Act shall submit an interim report to the
20 legislature no later than twenty days prior to the convening of
21 the regular session of 2020 and a final report within twenty



1 days after the close of the 2019-2020 fiscal year. The reports
2 shall include all enforcement actions taken by the respective
3 county wherein the county expended any funds allocated by this
4 Act.

5 **PART II**

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

19 The legislature also finds that hosting platforms should be
20 subject to fines if the hosting platform collects a booking
21 service fee for a transient accommodation that is located in the



1 State and if the operator or plan manager of the transient
2 accommodation is not registered with the director of taxation
3 under section 237D-4, Hawaii Revised Statutes.

4 The legislature additionally finds that transient
5 accommodations brokers, hosting platforms, and booking services
6 should regularly provide data on transient accommodations
7 listings in Hawaii, for greater transparency and data sharing
8 purposes.

9 The purpose of this part is to:

- 10 (1) Amend the definition of "transient accommodations" to
11 include other forms of transient accommodations and
12 other terms that the counties may have defined;
- 13 (2) Make it unlawful for a hosting platform to provide,
14 and collect a fee for, booking services in connection
15 with transient accommodations located in the State if
16 the operator or plan manager is not registered with
17 the director of taxation as required under section
18 237D-4, Hawaii Revised Statutes;
- 19 (3) Require anonymous, periodic reports by transient
20 accommodations brokers, hosting platforms, and booking
21 services to the department of business, economic



1 development, and tourism of transient accommodations
2 listings;

3 (4) Enable a transient accommodations broker to register
4 as a tax collection agent with respect to transient
5 accommodations taxes and general excise taxes for its
6 operators and plan managers; and

7 (5) Require operators and plan managers to remove a
8 transient accommodation advertisement upon notice that
9 the property is not in compliance with state law or
10 county ordinance.

11 This Part is not intended to preempt or otherwise limit the
12 authority of counties to adopt, monitor, and enforce local land
13 use regulations, and this Part is not intended to transfer the
14 authority to monitor and enforce such regulations away from the
15 counties.

16 **SUBPART A. DEFINITIONS**

17 SECTION 5. Section 237D-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding two new definitions to be appropriately
20 inserted and to read:



1 "Booking service" means any reservation or payment service
2 provided by a person or entity that facilitates a transient
3 accommodation transaction between an operator and a prospective
4 transient or occupant, and for which the person or entity
5 collects or receives, directly, or indirectly through an agent
6 or intermediary, a fee in connection with the reservation or
7 payment services provided for the transient accommodation
8 transaction.

9 "Hosting platform" means a person or entity that
10 participates in the transient accommodations business by
11 providing, and collecting or receiving a fee for, booking
12 services through which an operator or plan manager may offer a
13 transient accommodation. Hosting platforms usually, though not
14 necessarily, provide booking services through an online platform
15 that allows an operator or plan manager to advertise the
16 transient accommodations through a website provided by the
17 hosting platform and the hosting platform conducts a transaction
18 by which potential renters arrange, use, pay, whether the renter
19 pays rent directly to the operator, plan manager, or to the
20 hosting platform."



1 2. By amending the definition of "transient
2 accommodations" to read:

3 "Transient accommodations" means the furnishing of a room,
4 apartment, suite, single family dwelling, or the like to a
5 transient for less than one hundred eighty consecutive days for
6 each letting in a hotel, apartment hotel, motel, condominium or
7 unit as defined in chapter 514B, cooperative apartment, dwelling
8 unit, or rooming house that provides living quarters, sleeping,
9 or housekeeping accommodations, or other place in which lodgings
10 are regularly furnished to transients. "Transient
11 accommodations" includes "transient accommodations units",
12 "transient vacation rentals", "transient vacation units",
13 "transient vacation use", or any similar term that may be
14 defined by county ordinance to mean a room, apartment, house,
15 condominium, beach house, hotel room, suite, or similar living
16 accommodation rented to a transient person for less than one
17 hundred eighty consecutive days in exchange for payment in cash,
18 goods, or services."

19 **SUBPART B. HOSTING PLATFORM LIABILITY**



1 SECTION 6. Chapter 237D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237D- Booking services. (a) It shall be unlawful for
5 a hosting platform to provide and collect a fee for booking
6 services provided in connection with a transient accommodation
7 located in the State if the operator or plan manager of the
8 transient accommodation is not registered with the director as
9 required under section 237D-4. This section shall not apply to
10 booking services provided in connection with a transient
11 accommodation that is a hotel.

12 (b) A hosting platform that violates this section shall be
13 subject to a penalty of \$1,000 per booking service transaction
14 from which fees were collected in violation of subsection (a).
15 Each reservation or payment service for the letting of a
16 transient accommodation shall be a separate booking service
17 transaction.

18 (c) As used in this section:

19 "Booking service" shall have the same meaning as in section
20 237D-1.



1 "Hotel" means an establishment consisting of any building,
2 structure, or portion thereof containing more than nine rooming
3 units that, as part of its routine operations, furnishes
4 transient accommodations and provides one or more additional
5 customary lodging services other than the living accommodations
6 and the use of furniture, fixtures, and appliances, such as room
7 attendant, room service, bell service laundering service,
8 concierge service or daily housekeeping services.

9 "Hosting platform" shall have the same meaning as in
10 237D-1.

11 (d) The department may require, by subpoena, a hosting
12 platform to provide the names and registration identification
13 numbers for all operators and plan managers for whom the hosting
14 platform provided booking services and for all operators and
15 plan managers for whose property or transient accommodations the
16 hosting platform provided booking services.

17 (e) The department shall not impose penalties under this
18 section if the hosting platform obtains the registration
19 identification number issued under section 237D-4 of the
20 operators or plan managers described in subsection (d), in the
21 format in which the numbers are issued by the department.



1 (f) Any monetary penalty assessed under this section shall
2 be due and payable thirty days after the hosting platform is
3 notified of the imposition of the penalty. Penalties assessed
4 under this section may be appealed to the director of taxation
5 or the director's designee."

6 SECTION 7. Section 237D-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§237D-4 Certificate of registration.** (a) Each operator
9 or plan manager as a condition precedent to engaging or
10 continuing in the business of furnishing transient
11 accommodations or in business as a resort time share vacation
12 plan shall register with the director the name and address of
13 each place of business within the State subject to this chapter.
14 The operator or plan manager shall make a one-time payment as
15 follows:

- 16 (1) \$5 for each registration for transient accommodations
17 consisting of one to five units;
18 (2) \$15 for each registration for transient accommodations
19 consisting of six or more units; and
20 (3) \$15 for each resort time share vacation plan within
21 the State;



1 upon receipt of which the director shall issue a certificate of
2 registration in such form as the director determines, attesting
3 that the registration has been made. The registration shall not
4 be transferable and shall be valid only for the operator or plan
5 manager in whose name it is issued and for the transaction of
6 business at the place designated therein. Acquisition of
7 additional transient accommodation units after payment of the
8 one-time fee shall not result in additional fees.

9 (b) The registration, or in lieu thereof a notice stating
10 where the registration may be inspected and examined, shall at
11 all times be conspicuously displayed at the place for which it
12 is issued. The name, phone number, and electronic mail address
13 of the local contact shall at all times be conspicuously
14 displayed in the same place as the registration or the same
15 place as the notice stating where the registration may be
16 inspected and examined. Failure to meet the requirements of
17 this subsection shall be unlawful. The department may issue
18 citations to any person who fails to conspicuously display the
19 registration or notice, or the local contact's name, phone
20 number, or electronic mail address as required by this
21 subsection. A citation issued pursuant to this subsection for



1 each transient accommodation or resort time share vacation
2 interest, plan, or unit in violation of this subsection shall
3 include a monetary fine of not less than:

4 (1) \$500 per day, for a first violation for which a
5 citation is issued;

6 (2) \$1,000 per day, for a second violation for which a
7 citation is issued; and

8 (3) \$5,000 per day, for a third and any subsequent
9 violation for which a citation is issued.

10 (c) Any advertisement, including an online advertisement,
11 for any transient accommodation or resort time share vacation
12 interest, plan, or unit shall conspicuously provide:

13 (1) ~~[The registration identification number or an~~
14 ~~electronic link to the registration identification~~
15 ~~number of the] The operator or plan [manager issued~~
16 ~~pursuant to this section; and] manager's transient~~
17 ~~accommodations tax registration identification number;~~

18 (2) The local contact's name, phone number, and electronic
19 mail address, provided that this paragraph shall be
20 considered satisfied if this information is provided
21 to the transient or occupant prior to the furnishing



1 of the transient accommodation or resort time share
2 vacation unit[-]; and

3 (3) The applicable land use permit or registration
4 identification number of each advertised unit as
5 provided by the county having jurisdiction.

6 Upon notice that the property is not in compliance with
7 state law or county ordinance, an operator or plan manager shall
8 remove the transient accommodations unit advertisement.

9 (d) Failure to meet the requirements of subsection (c)
10 shall be unlawful. The department may issue citations to any
11 [~~person, including~~] operators [~~]~~ or plan managers [~~]~~ and
12 ~~transient accommodations brokers, who violates~~ who violate
13 subsection (c). A citation issued pursuant to this subsection
14 for each transient accommodation or resort time share vacation
15 interest, plan, or unit in violation of subsection (c) shall
16 include a monetary fine of not less than:

17 (1) \$500 per day, for a first violation for which a
18 citation is issued;

19 (2) \$1,000 per day, for a second violation for which a
20 citation is issued; and



1 (3) \$5,000 per day, for a third and any subsequent
2 violation for which a citation is issued.

3 (e) The registration provided for by this section shall be
4 effective until canceled in writing. Any application for the
5 reissuance of a previously canceled registration identification
6 number shall be regarded as a new registration application and
7 shall be subject to the payment of the one-time registration
8 fee. The director may revoke or cancel any license issued under
9 this chapter for cause as provided by rule under chapter 91.

10 (f) If the license fee is paid, the department shall not
11 refuse to issue a registration or revoke or cancel a
12 registration for the exercise of a privilege protected by the
13 First Amendment of the Constitution of the United States, or for
14 the carrying on of interstate or foreign commerce, or for any
15 privilege the exercise of which, under the Constitution and laws
16 of the United States, cannot be restrained on account of
17 nonpayment of taxes, nor shall section 237D-14 be invoked to
18 restrain the exercise of such a privilege, or the carrying on of
19 such commerce.

20 ~~[(g) Any person who may lawfully be required by the State,~~
21 ~~and who is required by this chapter, to register as a condition~~



1 ~~precedent to engaging or continuing in the business of~~
2 ~~furnishing transient accommodations or as a plan manager subject~~
3 ~~to taxation under this chapter, who engages or continues in the~~
4 ~~business without registering in conformity with this chapter,~~
5 ~~shall be guilty of a misdemeanor. Any director, president,~~
6 ~~secretary, or treasurer of a corporation who permits, aids, or~~
7 ~~abets such corporation to engage or continue in business without~~
8 ~~registering in conformity with this chapter, shall likewise be~~
9 ~~guilty of a misdemeanor. The penalty for the misdemeanors shall~~
10 ~~be the same as that prescribed by section 231-35 for~~
11 ~~individuals, corporations, or officers of corporations, as the~~
12 ~~case may be, for violation of that section.~~

13 ~~(h)]~~ (g) Any monetary fine assessed under this section
14 shall be due and payable thirty days after issuance of the
15 citation, subject to appeal rights provided under this
16 subsection. Citations may be appealed to the director of
17 taxation or the director's designee.

18 (h) Each transient accommodations broker, hosting
19 platform, and booking service shall electronically transmit a
20 quarterly report of Hawaii listing data by the fifth day of each
21 March, June, September, and December with the previous quarter's



1 data to the department of business, economic development, and
2 tourism. Listing data shall be submitted through an online
3 process, using a reporting template and appropriate calculation
4 guidelines developed by, and made publicly available on the
5 website of, the department of business, economic development,
6 and tourism. Reported data shall be anonymized and aggregated
7 by zip code, by the reporting party, and shall include all of
8 the following fields:

- 9 (1) Total number of available units;
- 10 (2) Total number of available rooms;
- 11 (3) Total available room nights;
- 12 (4) Total occupied room nights;
- 13 (5) Average daily rate; and
- 14 (6) Total revenue.

15 Any transient accommodations broker, hosting platform, or
16 booking service who fails to provide a quarterly report to the
17 department of business, economic development, and tourism shall
18 be subject to the citation process and penalties of \$100 per day
19 for non-compliance.

20 (i) Any person who is required by this section to register
21 as a condition precedent to engaging or continuing in the



1 business of furnishing transient accommodations or as a plan
2 manager subject to taxation under this chapter, who engages or
3 continues in the business without registering in conformity with
4 this section, shall be subject to the citation process and
5 monetary fines under subsection (d).

6 (j) For purposes of this section, "engaging or continuing
7 in the business of furnishing transient accommodations" includes
8 posting any advertisement for the furnishing of a transient
9 accommodation."

10 **SUBPART C. TRANSIENT ACCOMMODATIONS BROKERS AS TAX COLLECTION**

11 **AGENTS**

12 SECTION 8. 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; operator and plan manager. (a) The director may permit
17 a transient accommodations broker to register as a tax
18 collection agent on behalf of all of its operators and plan
19 managers by entering into a tax collection agreement with the
20 director or by submitting a tax collection agent registration



1 statement to the director; provided that the transient

2 accommodations broker agrees in writing:

3 (1) To obtain written consent from all of its operators
4 and plan managers for the disclosure of periodic
5 returns and information required under subsection (g);

6 (2) To furnish information to the counties as required in
7 subsection (g); and

8 (3) That continuing to collect fees for booking services
9 in connection with a transient accommodation, seven
10 days after receiving written notice from a state or
11 county governmental authority that the subject
12 property is not in compliance with state law or county
13 ordinance, is a violation of the tax collection
14 agreement.

15 Any tax collection agreement entered into pursuant to this
16 section shall be subject to and in accordance with all
17 applicable provisions of state law and county ordinances and
18 shall not permit a tax collection agent, nor any operator or
19 plan manager conducting business through the tax collection
20 agent, to opt out of any requirements or obligations under state
21 law or county ordinance.



1 The director shall deny an application for registration as
2 a tax collection agent under this section for violations of this
3 subsection and may deny an application for any other cause
4 authorized by law, including any violation of this chapter or
5 rules adopted pursuant thereto, violation of any prior tax
6 collection agreement, or failure to meet minimum criteria that
7 may be set forth by the department in rules adopted pursuant to
8 chapter 91.

9 The director shall issue a certificate of registration or
10 letter of denial within thirty days after a transient
11 accommodations broker submits to the director a completed and
12 signed tax collection agent registration statement, in a form
13 prescribed by the department.

14 The registration shall be valid only for the tax collection
15 agent in whose name it is issued, and for the website or hosting
16 platform designated therein, and shall not be transferable.

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



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

6 (c) The registered tax collection agent's operators and
7 plan managers shall obtain licensure under this chapter and
8 remain subject to the requirements of title 14; provided that
9 the registered tax collection agent shall report, collect, and
10 pay the taxes under this chapter on behalf of the operators and
11 plan managers for business activity conducted directly through
12 the agent, as set forth in this section, from the date of
13 registration until the registration is canceled as provided in
14 subsection (h). For purposes of any other business activity,
15 the operators and plan managers shall be subject to all
16 requirements of title 14 and all county ordinances and rules
17 regulating transient accommodations, regardless of the terms
18 used by the county to refer to transient accommodations, as if
19 this section did not exist.

20 A registered tax collection agent shall be issued separate
21 certificates of registration under this chapter with respect to



1 taxes payable on behalf of its operators and plan managers in
2 its capacity as a registered tax collection agent and, if
3 applicable, with respect to any taxes payable under this chapter
4 for its own business activities.

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

15 (e) A tax collection agent shall be liable for the taxes
16 imposed by this chapter that are due and collected on behalf of
17 operators and plan managers, if taxes are collected, but not
18 reported or paid, together with penalties and interest as
19 provided by law.

20 (f) Except as otherwise provided in this subsection and
21 subsection (g), all returns and other information provided by a



1 registered tax collection agent, including the application for
2 registration as a tax collection agent or any tax collection
3 agreement, shall be confidential, and disclosure thereof shall
4 be prohibited as provided in section 237-34. Nothing in this
5 subsection shall prevent public disclosure of information about
6 registered agents as provided in subsection 92F-12(a)(13) or of
7 aggregated information not identifiable to a specific tax
8 collection agent.

9 (g) A registered tax collection agent shall file periodic
10 returns in accordance with section 237-30 and annual returns in
11 accordance with section 237-33. Each periodic return required
12 under section 237-30 shall be accompanied by an electronic cover
13 sheet, in a form prescribed by the department that includes the
14 following information:

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

20 (2) For each transient accommodation rented through the
21 registered tax collection agent or the website or



1 hosting platform designated in the certificate of
2 registration issued pursuant to chapter 237D, for
3 which taxes are being remitted pursuant to this
4 chapter:

- 5 (A) The address of the transient accommodation;
6 (B) The number of nights that each transient
7 accommodation was rented and the rate or price at
8 which each transient accommodation was rented;
9 and
10 (C) The amount of tax being remitted pursuant to this
11 chapter and the amount of any federal form 1099
12 income that was derived from each transient
13 accommodation.

14 Upon request by the planning director or mayor of the
15 applicable county, a registered tax collection agent shall
16 disclose any of the information contained in the returns or
17 cover sheets required by this subsection to the planning
18 director or any county official designated by the mayor to
19 receive the information. Notwithstanding any law to the
20 contrary, including section 237-34, the planning director and
21 county official designated to receive the information pursuant



1 to this subsection may examine and copy the returns and cover
2 sheets to ensure compliance with this section, state tax laws
3 and county tax ordinances, and any applicable land use laws and
4 ordinances.

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

7 A registered tax collection agent may cancel its
8 registration under this section by delivering written notice of
9 cancellation to the director and each of the agent's operators
10 and plan managers furnishing transient accommodations in the
11 State no later than ninety days prior to the effective date of
12 cancellation.

13 The director may cancel a tax collection agent's
14 registration under this section for any cause, including any
15 violation of this chapter or rules adopted pursuant thereto, or
16 for violation of any applicable tax collection agreement, by
17 delivering written notice of cancellation to the tax collection
18 agent no later than ninety days prior to the effective date of
19 cancellation.

20 (i) When conducting business with an operator or plan
21 manager with respect to a property for lease or rent, transient



1 accommodations brokers, hosting platforms, and booking services
2 shall:

3 (1) Notify the operator or plan manager that the subject
4 property is required to be in compliance with
5 applicable state and county land use laws and
6 ordinances prior to retaining the services of the
7 transient accommodations broker, hosting platform, or
8 booking service;

9 (2) Require the operator or plan manager to provide the
10 transient accommodations broker, hosting platform, or
11 booking service with the operator's or plan manager's
12 transient accommodations tax identification number and
13 local contact information and shall notify the
14 operator or plan manager that this information is
15 required in advertisements for transient
16 accommodations or resort time share vacation
17 interests, plans, or units under section 237D-4;

18 (3) Require the operator or plan manager to provide the
19 transient accommodation broker, hosting platform, and
20 booking service with the county non-conforming use
21 registration number, or other unit-specific transient



1 accommodation registration number as issued by the
2 appropriate county agency, and verification of
3 compliance with state and county land use laws in the
4 form of a written certification, verification, or
5 permit, as applicable, issued by the appropriate
6 county agency; and

7 (4) Require the operator or plan manager to provide any
8 other information as may be required by rulemaking.

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

16 The state or county governmental authority shall provide a copy
17 of the written notice to the transient accommodations broker,
18 hosting platform, or booking service.

19 (j) Nothing in this section shall be construed to preempt
20 or prohibit the authority of a unit of local government in the
21 State, including counties and any other political subdivisions



1 of the State, to adopt, monitor, and enforce local land use
2 ordinances, rules, or regulations, nor to transfer the authority
3 to monitor and enforce these ordinances, rules, or regulations
4 away from the counties.

5 (k) For the purposes of this section:

6 "Booking service" has the same meaning as in section
7 237D-1.

8 "Director" means the director of taxation.

9 "Hosting platform" has the same meaning as in section 237D-
10 1.

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

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

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

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

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

20 "§237D- Transient accommodations broker as tax
21 collection agent; operator and plan manager. (a) The director



1 may permit a transient accommodations broker to register as a
2 tax collection agent on behalf of all of its operators and plan
3 managers by entering into a tax collection agreement with the
4 director or by submitting a tax collection agent registration
5 statement to the director; provided that the transient
6 accommodations broker agrees in writing:

- 7 (1) To obtain written consent from all of its operators
8 and plan managers for the disclosure of periodic
9 returns and information required under subsection (g);
10 (2) To furnish information to the counties as required in
11 subsection (g); and
12 (3) That continuing to collect fees for booking services
13 in connection with a transient accommodation, seven
14 days after receiving written notice from a state or
15 county governmental authority that the subject
16 property is not in compliance with state law or county
17 ordinance, is a violation of the tax collection
18 agreement.

19 Any tax collection agreement entered into pursuant to this
20 section shall be subject to and in accordance with all
21 applicable provisions of state law and county ordinances and



1 shall not permit a tax collection agent, nor any operator or
2 plan manager conducting business through the tax collection
3 agent, to opt out of any requirements or obligations under state
4 law or county ordinance.

5 The director shall deny an application for registration as
6 a tax collection agent under this section for violations of this
7 subsection and may deny an application for any other cause
8 authorized by law, including any violation of this chapter or
9 rules adopted pursuant thereto, violation of any prior tax
10 collection agreement, or failure to meet minimum criteria that
11 may be set forth by the department in rules adopted pursuant to
12 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 tax collection agent registration statement, in a form
17 prescribed by the department. The registration shall be valid
18 only for the tax collection agent in whose name it is issued,
19 and for the website or hosting platform designated therein, and
20 shall not be transferable.



1 A registered tax collection agent shall be issued separate
2 certificates of registration under this chapter with respect to
3 taxes payable on behalf of its operators and plan managers in
4 its capacity as a registered tax collection agent and, if
5 applicable, with respect to any taxes payable under this chapter
6 for its own business activities.

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

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



1 plan managers for business activity conducted directly through
2 the registered tax collection agent, as set forth in this
3 section, from the date of registration until the registration is
4 canceled as provided in subsection (h). For purposes of any
5 other business activity, the operators and plan managers shall
6 be subject to all requirements of title 14 and all applicable
7 ordinances and rules regulating transient accommodations,
8 regardless of the terms used by the county to refer to transient
9 accommodations, as if this section did not exist.

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

20 (e) A tax collection agent shall be liable for the taxes
21 imposed by this chapter that are due and collected on behalf of



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

4 (f) Except as otherwise provided in this subsection and
5 subsection (g), all returns and other information provided by a
6 registered tax collection agent, including the application for
7 registration as a tax collection agent or any tax collection
8 agreement, shall be confidential, and disclosure thereof shall
9 be prohibited as provided in section 237D-13. Nothing in this
10 subsection shall prevent public disclosure of information about
11 registered agents as provided in subsection 92F-12(a)(13) or of
12 aggregated information not identifiable to a specific tax
13 collection agent.

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

20 (1) For each operator and plan manager on whose behalf the
21 tax collection agent is required to report, collect,



1 and pay over taxes due under this chapter, the
2 operator's or plan manager's name, address, and
3 transient accommodations registration identification
4 number; and

5 (2) For each transient accommodation rented through the
6 registered tax collection agent or the website or
7 hosting platform designated in the certificate of
8 registration issued pursuant to subsection (a), for
9 which taxes are being remitted pursuant to this
10 chapter:

11 (A) The address of the transient accommodation;

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

16 (C) The amount of tax being remitted pursuant to this
17 chapter and the amount of any federal form 1099
18 income that was derived from each transient
19 accommodation.

20 Upon request by the planning director or mayor of the
21 applicable county, a registered tax collection agent shall



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

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

13 A registered tax collection agent may cancel its
14 registration under this section by delivering written notice of
15 cancellation to the director and each of the agent's operators
16 and plan managers furnishing transient accommodations in the
17 State no later than ninety days prior to the effective date of
18 cancellation.

19 The director may cancel a tax collection agent's
20 registration under this section for any cause, including any
21 violation of this chapter or rules adopted pursuant thereto, or



1 for violation of any applicable tax collection agreement, by
2 delivering written notice of cancellation to the tax collection
3 agent no later than ninety days prior to the effective date of
4 cancellation.

5 (i) When conducting business with an operator or plan
6 manager with respect to a property for lease or rent, transient
7 accommodations brokers, hosting platforms, and booking services
8 shall:

9 (1) Notify the operator or plan manager that the subject
10 property is required to be in compliance with
11 applicable state land use laws and county land use
12 ordinances prior to retaining the services of the
13 transient accommodations broker, hosting platform, or
14 booking service;

15 (2) Require the operator or plan manager to provide the
16 transient accommodations broker, hosting platform, or
17 booking service with the operator or plan manager's
18 transient accommodations tax registration
19 identification number and local contact information
20 and shall notify the operator or plan manager that
21 this information is required in advertisements for



1 transient accommodations or resort time share vacation
2 interests, plans, or units under section 237D-4;

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

9 (4) Require the operator or plan manager to provide a
10 statement to the transient accommodations broker
11 confirming compliance with all land use laws and
12 ordinances; and

13 (5) Require the operator or plan manager to provide any
14 other information as may be required by rulemaking.

15 An operator or plan manager shall remove any advertisement,
16 including an online advertisement, for a transient accommodation
17 located in the State for which the operator or plan manager
18 fails to comply with paragraph (2), (3), (4), or (5) or for
19 which the operator or plan manager has received written notice
20 from a state or local governmental authority that the property
21 is not in compliance with state law or county ordinance, as



1 applicable. The state or county governmental authority shall
2 provide a copy of the written notice to the transient
3 accommodations broker, hosting platform, or booking service.

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

11 SECTION 10. Section 237D-4.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 " ~~[+]~~ §237D-4.5 ~~[+]~~ Certificate of registration for transient
14 accommodations broker, travel agency, and tour packager. (a)
15 Each transient accommodations broker, travel agency, or tour
16 packager, as a condition precedent to entering into an
17 arrangement to furnish transient accommodations at
18 noncommissioned negotiated contract rates, shall register with
19 the director. The transient accommodations broker, travel
20 agency, or tour packager shall make a one-time payment of \$15
21 for each registration, upon receipt of which the director shall



1 issue a certificate of registration in a form as the director
2 determines, attesting that the registration has been made. The
3 registration shall not be transferable and shall be valid only
4 for the transient accommodations broker, travel agency, or tour
5 packager in whose name it is issued.

6 (b) The registration shall be effective until canceled in
7 writing. Any application for the reissuance of a previously
8 canceled registration identification number shall be regarded as
9 a new application for registration and shall be subject to the
10 payment of the one-time registration fee. The director may
11 revoke or cancel any registration issued under this section for
12 cause as provided by rule under chapter 91.

13 (c) Any person who enters into an arrangement to furnish
14 transient accommodations without registering in conformity with
15 this section shall be subject to the citation process and
16 monetary fines under section 237D-4(d)."

17 **PART III**

18 SECTION 11. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



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

3 SECTION 12. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect on July 1, 2099.

6

7



Report Title:

Transient Accommodations; Vacation Rentals; Counties; Enforcement; Hosting Platform Liability; Transparency; Data Sharing; Transient Accommodations Brokers; Tax Collection Agents

Description:

Part I: Makes a county eligible to receive funds from the State for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, under specified conditions. Makes an allocation from TAT revenues. Requires reports from counties receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances. Part II: Amends the definition of "transient accommodations" to include additional forms of transient accommodations. Makes it unlawful for a hosting platform to provide, and collect a fee for, booking services regarding transient accommodations if the operator or plan manager is not registered with the Director of Taxation. Amends requirements relating to transient accommodations tax certificates of registration to ensure greater transparency. Allows a transient accommodations broker to register as a GET and TAT tax collection agent for its operators and plan managers. Takes effect on 7/1/2099. (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.

