
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 a recent business
2 pulse survey in the January 9, 2015, edition of the Pacific
3 Business News found that 71.5 per cent of respondents said "yes"
4 when asked, "Should home-based vacation rentals be subject to
5 the same transient accommodations tax (TAT) levied on hotel
6 rooms and time-shares?" 25.7 per cent of respondents said "no"
7 and 2.8 per cent were undecided. Although many home-based
8 vacation rentals are subject to the same transient
9 accommodations tax levied on hotel rooms and time shares, many
10 operators of transient accommodations and plan managers of
11 resort time share vacation plans have been circumventing the
12 law, creating an unfair advantage over their law-abiding
13 counterparts. In line with public sentiment on this issue, the
14 legislature finds that action is necessary to correct this
15 situation.



1 The purpose of this Act is to:

2 (1) Extend for one additional year, the changes adopted by
3 Act 326, Session Laws of Hawaii 2012, which, among
4 other things, established local contact and
5 informational requirements for transient
6 accommodations;

7 (2) Require the department of taxation to submit an annual
8 report to the legislature on the implementation of Act
9 326, Session Laws of Hawaii 2012; and

10 (3) Authorize the department of taxation to enforce civil
11 penalties for operators and plan managers who fail to
12 display certificates of registration and registration
13 identification numbers as required by section 437D-4,
14 Hawaii Revised Statutes; and

15 (4) Authorize the deposit of monetary fines into the tax
16 administration special fund.

17 SECTION 2. Section 235-20.5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) There is established a tax administration special
20 fund, into which shall be deposited:



1 (1) Fees collected under sections 235-20, 235-110.9, and
2 235-110.91;

3 ~~[(+)]~~ (2) ~~[(+)]~~ Revenues collected by the special enforcement section
4 pursuant to section 231-85; provided that in each
5 fiscal year, of the total revenues collected by the
6 special enforcement section, all revenues in excess of
7 \$500,000 shall be deposited into the general fund~~[-]~~;
8 and

9 (3) Fines assessed pursuant to section 237D-4."

10 SECTION 3. Section 237D-4, Hawaii Revised Statutes, is
11 amended to read as follows:

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

20 (1) \$5 for each registration for transient accommodations
21 consisting of one to five units;



1 (2) \$15 for each registration for transient accommodations
2 consisting of six or more units; and

3 (3) \$15 for each resort time share vacation plan within
4 the State;

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

13 (b) The registration, or in lieu thereof a notice stating
14 where the registration may be inspected and examined, shall at
15 all times be conspicuously displayed at the place for which it
16 is issued. [~~Acquisition of additional transient accommodation~~
17 ~~units after payment of the one-time fee shall not result in~~
18 ~~additional fees.] Failure to meet the requirements of this
19 subsection shall be unlawful. The department may issue cease
20 and desist citations to any person who fails to conspicuously
21 display the registration or notice as required by this~~



1 subsection. A cease and desist citation issued pursuant to this
2 subsection shall include a monetary fine of \$1,000 and may be
3 issued once per day, per place for which the registration or
4 notice was issued.

5 (c) The registration identification number issued pursuant
6 to this section shall be provided on a website or by online link
7 and displayed in all advertisements and solicitations on
8 websites regarding transient accommodations for which the
9 registration identification number is issued. Failure to meet
10 the requirements of this subsection shall be unlawful. The
11 department may issue cease and desist citations to any person
12 who fails to provide the registration identification number as
13 required by this subsection. A cease and desist citation issued
14 pursuant to this subsection shall include a monetary fine of
15 \$1,000 and may be issued once per day, per advertisement.

16 (d) The registration provided for by this section shall be
17 effective until canceled in writing. Any application for the
18 reissuance of a previously canceled registration identification
19 number shall be regarded as a new registration application and
20 shall be subject to the payment of the one-time registration



1 fee. The director may revoke or cancel any license issued under
2 this chapter for cause as provided by rule under chapter 91.

3 ~~[(b)]~~ (e) If the license fee is paid, the department shall
4 not refuse to issue a registration or revoke or cancel a
5 registration for the exercise of a privilege protected by the
6 First Amendment of the Constitution of the United States, or for
7 the carrying on of interstate or foreign commerce, or for any
8 privilege the exercise of which, under the Constitution and laws
9 of the United States, cannot be restrained on account of
10 nonpayment of taxes, nor shall section 237D-14 be invoked to
11 restrain the exercise of such a privilege, or the carrying on of
12 such commerce.

13 ~~[(e)]~~ (f) Any person who may lawfully be required by the
14 State, and who is required by this chapter, to register as a
15 condition precedent to engaging or continuing in the business of
16 furnishing transient accommodations or as a plan manager subject
17 to taxation under this chapter, who engages or continues in the
18 business without registering in conformity with this chapter,
19 shall be guilty of a misdemeanor. Any director, president,
20 secretary, or treasurer of a corporation who permits, aids, or
21 abets such corporation to engage or continue in business without



1 registering in conformity with this chapter, shall likewise be
2 guilty of a misdemeanor. The penalty for the misdemeanors shall
3 be the same as that prescribed by section [~~231-34~~] 231-35 for
4 individuals, corporations, or officers of corporations, as the
5 case may be, for violation of that section."

6 SECTION 4. Act 326, Session Laws of Hawaii 2012, is
7 amended as follows:

8 1. By adding a new section to read:

9 "SECTION 2A. Commencing with the regular session of 2016,
10 the department of taxation shall submit a report of its findings
11 and recommendations regarding the implementation of this Act,
12 including any proposed legislation to improve the enforcement of
13 this Act, to the legislature no later than twenty days prior to
14 the convening of each regular session."

15 2. By amending section 4 to read:

16 "SECTION 4. This Act shall take effect on July 1, 2012;
17 provided that this Act shall be repealed on December 31, [~~2015-~~]
18 2016."

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

21 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Vacation Rentals; Transient Accommodations Tax; Registration;
Advertisements

Description:

Extends Act 326, SLH 2012, for one year. Requires DOTAX to submit an annual report to the legislature on the implementation of Act 326, SLH 2012. Authorizes DOTAX to enforce civil penalties for operators and plan managers who fail to display the certificate of registration and registration ID numbers for transient accommodations. Authorizes fines to be deposited into the Tax Administration Special Fund. (SB519 HD1)

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