
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;

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 237D-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 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 "Transient" means any occupant of a room, apartment,
2 suite, single family dwelling, or the like in a hotel, apartment
3 hotel, motel, condominium property regime, or apartment, as
4 defined in chapter 514A or unit as defined in chapter 514B,
5 cooperative apartment, dwelling unit, or rooming house that
6 provides living quarters, sleeping, or housekeeping
7 accommodations, or other place in which lodgings are furnished
8 to other than residents and pursuant to an agreement, written or
9 oral, for the lodging and consideration, other than a rental
10 agreement as defined in section 521-8.

11 "Transient accommodations broker" means any person or
12 entity, including online websites, online travel agencies,
13 online booking agents, that offers, lists, advertises, or
14 accepts reservations or collects whole or partial payment for
15 transient accommodations."

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

18 "Transient accommodations" means the furnishing of a room,
19 apartment, suite, single family dwelling, or the like [~~which is~~
20 eustomarily occupied by] to a transient for less than one
21 hundred eighty consecutive days for each letting [~~by~~] in a



1 hotel, apartment hotel, motel, condominium property regime or
2 apartment as defined in chapter 514A or unit as defined in
3 chapter 514B, cooperative apartment, dwelling unit, or rooming
4 house that provides living quarters, sleeping, or housekeeping
5 accommodations, or other place in which lodgings are regularly
6 furnished to transients [~~for consideration~~]."

7 SECTION 3. Section 235-20.5, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

11 (1) Fees collected under sections 235-20, 235-110.9, and
12 235-110.91;

13 [+](2)[+] Revenues collected by the special enforcement section
14 pursuant to section 231-85; provided that in each
15 fiscal year, of the total revenues collected by the
16 special enforcement section, all revenues in excess of
17 \$500,000 shall be deposited into the general fund[-];
18 and

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

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



1 "§237D-4 Certificate of registration. (a) Each operator
2 or plan manager as a condition precedent to engaging or
3 continuing in the business of furnishing transient
4 accommodations or in business as a resort time share vacation
5 plan shall register with the director the name and address of
6 each place of business within the State subject to this chapter.
7 The operator or plan manager shall make a one-time payment as
8 follows:

- 9 (1) \$5 for each registration for transient accommodations
10 consisting of one to five units;
11 (2) \$15 for each registration for transient accommodations
12 consisting of six or more units; and
13 (3) \$15 for each resort time share vacation plan within
14 the State;

15 upon receipt of which the director shall issue a certificate of
16 registration in such form as the director determines, attesting
17 that the registration has been made. The registration shall not
18 be transferable and shall be valid only for the operator or plan
19 manager in whose name it is issued and for the transaction of
20 business at the place designated therein. Acquisition of



1 additional transient accommodation units after payment of the
2 one-time fee shall not result in additional fees.

3 (b) The registration, or in lieu thereof a notice stating
4 where the registration may be inspected and examined, shall at
5 all times be conspicuously displayed at the place for which it
6 is issued. [~~Acquisition of additional transient accommodation~~
7 units after payment of the one time fee shall not result in
8 additional fees.] Failure to meet the requirements of this
9 subsection shall be unlawful. The department may issue cease
10 and desist citations to any person who fails to conspicuously
11 display the registration or notice as required by this
12 subsection. A cease and desist citation issued pursuant to this
13 subsection shall include a monetary fine of \$1,000 and may be
14 issued once per day, per place for which the registration or
15 notice was issued.

16 (c) The registration identification number issued pursuant
17 to this section together with the required disclosure set forth
18 in this subsection shall be provided on a website or by online
19 link and displayed in all advertisements, solicitations, and
20 notices on websites or through other online communication media
21 regarding the transient accommodations for which the



1 registration identification number is issued, and confirmation
2 of compliance with this requirement shall be a condition to the
3 listing or posting by any transient accommodations broker of any
4 such advertising, solicitation, or other notice. The required
5 disclosure shall be: "THIS IS A HAWAII TRANSIENT ACCOMMODATIONS
6 GOVERNED BY HAWAII LAW. HAWAII TRANSIENT ACCOMMODATIONS TAXES
7 MUST BE PAID ON THE GROSS RENTS COLLECTED BY AN OPERATOR FROM
8 ANY PERSON RENTING HAWAII TRANSIENT ACCOMMODATIONS. HAWAII LAW
9 ALSO PROVIDES FURTHER REQUIREMENTS OF A TRANSIENT ACCOMMODATIONS
10 OPERATOR."

11 (d) The registration provided for by this section shall be
12 effective until canceled in writing. Any application for the
13 reissuance of a previously canceled registration identification
14 number shall be regarded as a new registration application and
15 shall be subject to the payment of the one-time registration
16 fee. The director may revoke or cancel any license issued under
17 this chapter for cause as provided by rule under chapter 91.

18 ~~(b)~~ (e) If the license fee is paid, the department shall
19 not refuse to issue a registration or revoke or cancel a
20 registration for the exercise of a privilege protected by the
21 First Amendment of the Constitution of the United States, or for



1 the carrying on of interstate or foreign commerce, or for any
2 privilege the exercise of which, under the Constitution and laws
3 of the United States, cannot be restrained on account of
4 nonpayment of taxes, nor shall section 237D-14 be invoked to
5 restrain the exercise of such a privilege, or the carrying on of
6 such commerce.

7 ~~(e)~~ (f) Any person who may lawfully be required by the
8 State, and who is required by this chapter, to register as a
9 condition precedent to engaging or continuing in the business of
10 furnishing transient accommodations or as a plan manager subject
11 to taxation under this chapter, who engages or continues in the
12 business without registering in conformity with this chapter,
13 shall be guilty of a misdemeanor. Any director, president,
14 secretary, or treasurer of a corporation who permits, aids, or
15 abets such corporation to engage or continue in business without
16 registering in conformity with this chapter, shall likewise be
17 guilty of a misdemeanor. The penalty for the misdemeanors shall
18 be the same as that prescribed by section ~~[231-34]~~ 231-35 for
19 individuals, corporations, or officers of corporations, as the
20 case may be, for violation of that section."



1 SECTION 5. Act 326, Session Laws of Hawaii 2012, is
2 amended as follows:

3 1. By adding a new section to read:

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

10 2. By amending section 4 to read:

11 "SECTION 4. This Act shall take effect on July 1, 2012;
12 provided that this Act shall be repealed on December 31, [~~2015-~~
13 2016."

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2112.



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. Amends the definition of "transient accommodations". (SB519 HD3)

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