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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

1           SECTION 1. The legislature finds that although many owners  
2 of transient accommodations operate in compliance with  
3 applicable state and county laws, there are a sizeable number of  
4 owners who do not. Failure to comply denies the State and  
5 counties of the transient accommodations taxes and general  
6 excise taxes they are due. Enforcement efforts may also be  
7 hampered when the owner of a transient accommodation lives on a  
8 different island from the property or out of state.

9           The legislature also finds that requiring nonresident  
10 owners to employ a licensed professional such as a real estate  
11 broker or salesperson or a condominium hotel operator is an  
12 important consumer protection measure. Consumers who use real  
13 estate companies, real estate brokers, real estate salespersons,  
14 or condominium hotel operators for their transient accommodation  
15 rental needs can do so with the knowledge that all money  
16 generated will flow through a client trust account, the  
17 appropriate federal tax form 990s will be generated, and  
18 accurate transient accommodations taxes and general excise taxes



1 will be paid. Real estate companies, real estate brokers, real  
2 estate salespersons, and condominium hotel operators must comply  
3 with specific licensing and bonding requirements, thus offering  
4 additional protections for consumers.

5 Requiring owners who live on a different island from their  
6 transient accommodation property or out of state to provide a  
7 local contact is another important aspect of consumer  
8 protection. A local contact close to the rental property is  
9 essential in case of an emergency or natural disaster.

10 Accordingly, the purpose of this Act is to foster consumer  
11 protection in the State's transient vacation rental market and  
12 ensure greater compliance with applicable state and county laws  
13 by owners who operate transient accommodations in the State.

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

17 **"§237D- Nonresident owner; transient accommodations.**

18 (a) Any nonresident owner who operates a transient  
19 accommodation located in the nonresident owner's private  
20 residence, including a condominium, apartment, or townhouse as  
21 defined in chapters 514A, 514B, or 421J, shall employ a real  
22 estate broker or salesperson licensed under chapter 467;



1 provided that any nonresident owner who operates a transient  
2 accommodation located in the nonresident owner's private  
3 residence in a condominium hotel shall employ a condominium  
4 hotel operator pursuant to section 467-30. The nonresident  
5 owner shall furnish the name, address, and contact information  
6 of the real estate broker or salesperson or condominium hotel  
7 operator to any association of homeowners, community  
8 association, condominium association, cooperative, or any other  
9 nongovernmental entity with covenants, bylaws, and  
10 administrative provisions with which the owner's compliance is  
11 required.

12 Any real estate broker or salesperson or condominium hotel  
13 operator authorized under an agreement by the nonresident owner  
14 of transient accommodations located within this State to collect  
15 rent on behalf of the nonresident owner shall be subject to the  
16 requirements of sections 237-30.5, 237D-6, and 237D-8.5.

17 It shall be unlawful for any nonresident owner to operate a  
18 transient accommodation located in the nonresident owner's  
19 private residence, including a condominium, apartment, or  
20 townhouse as defined in chapters 514A, 514B, or 421J, without  
21 employing a real estate broker or salesperson as required under  
22 this section. It shall also be unlawful for any nonresident



1 owner to operate a transient accommodation located in the  
2 nonresident owner's private residence in a condominium hotel  
3 without employing a condominium hotel operator as required under  
4 this section.

5 Any person or entity not subject to the exemption under  
6 subsection (d) who violates this section shall be subject to a  
7 fine not to exceed \$ \_\_\_\_\_.

8 (b) Any nongovernmental entity with covenants, bylaws, and  
9 administrative provisions which is formed pursuant to chapter  
10 514A, 514B, or 421J, or is registered as a condominium hotel  
11 operator pursuant to section 467-30, shall provide the  
12 department with all relevant information related to all owners  
13 who may be leasing their property as transient accommodations by  
14 December 31 of each year. Any person or entity who violates  
15 this section shall be subject to a fine not to exceed  
16 \$ \_\_\_\_\_.

17 (c) Each county shall provide the department with all  
18 relevant information about owners of real property that is  
19 permitted as a transient accommodation by the respective county  
20 by December 31 of each year. Notwithstanding any provision of  
21 title 14 to the contrary, the department shall provide the



1 counties with information necessary for the enforcement of  
2 county real property tax laws.

3 (d) A nonresident owner who obtains an annual tax  
4 clearance from the department and submits the tax clearance  
5 along with its federal tax form 990 to the real estate  
6 commission shall be exempt from subsection (a).

7 (e) Advertisements for every transient accommodation  
8 located in the State shall include the name and phone number of  
9 a local point of contact for each transient accommodation. The  
10 local point of contact shall reside on the same island as the  
11 transient accommodation. Any person or entity who violates this  
12 section shall be subject to a fine not to exceed \$ \_\_\_\_\_.

13 (f) Any fines for violations of this section shall be in  
14 addition to the payment of any back taxes.

15 (g) For the purposes of this section:

16 "Nonresident owner" means an owner of a rental property in  
17 the State who resides on a different island from the property or  
18 out of state and who rents or leases the property to a tenant."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect July 1, 2012.



**Report Title:**

Nonresident Owners; Transient Accommodations

**Description:**

Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. (SD1)

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

