
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 section 521-43(f),
2 Hawaii Revised Statutes, as part of the landlord-tenant code,
3 requires an owner or landlord who lives out of state or on a
4 different island than the island on which the rental unit is
5 located to designate an agent who resides on the same island to
6 act on the owner's or landlord's behalf. Section 521-7, Hawaii
7 Revised Statutes, also clearly states that the only exemption
8 from the landlord-tenant code for transient rentals is transient
9 occupancy on a day-to-day basis in a hotel or motel.

10 The legislature also finds that the landlord-tenant code
11 focuses on consumer protection. Requiring operators who live on
12 a different island from their transient accommodation property
13 or out of state to designate a local contact is an important
14 aspect of consumer protection. A contact person located on the
15 same island as the transient accommodation is essential in the
16 case of an emergency or natural disaster. A local contact is
17 also vital if any questions, concerns, or property issues arise
18 regarding the transient accommodation. All operators of



1 transient accommodations who live out of state or on a different
2 island must identify a local contact.

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

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

7 (1) Fees collected under sections 235-20, 235-110.9, and
8 235-110.91;

9 [†](2)[†] Revenues collected by the special enforcement section
10 pursuant to section 231-85; provided that in each
11 fiscal year, of the total revenues collected by the
12 special enforcement section, all revenues in excess of
13 [~~\$500,000~~] \$700,000 shall be deposited into the
14 general fund~~[-]~~; and

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

16 SECTION 3. Section 237D-1, Hawaii Revised Statutes, is
17 amended as follows:

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

20 "Local contact" means an individual residing on the same
21 island as the transient accommodation or resort time share



1 vacation unit or an entity with a place of business and at least
2 one employee, officer, partner, member, or other person working
3 on behalf of the company who is residing on the same island as
4 the transient accommodation or resort time share vacation unit.

5 "Transient accommodations broker" means any person or
6 entity, including but not limited to persons who operate online
7 websites, online travel agencies, or online booking agencies,
8 that offers, lists, advertises, or accepts reservations or
9 collects whole or partial payment for transient accommodations
10 or resort time share vacation interests, units, or plans."

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

13 "Transient accommodations" means the furnishing of a room,
14 apartment, suite, single family dwelling, or the like [~~which is~~
15 ~~customarily occupied by~~] to a transient for less than one
16 hundred eighty consecutive days for each letting [~~by~~] in a
17 hotel, apartment hotel, motel, condominium property regime or
18 apartment as defined in chapter 514A or unit as defined in
19 chapter 514B, cooperative apartment, dwelling unit, or rooming
20 house that provides living quarters, sleeping, or housekeeping



1 accommodations, or other place in which lodgings are regularly
2 furnished to transients [~~for consideration~~]."

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

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

- 13 (1) \$5 for each registration for transient accommodations
14 consisting of one to five units;
- 15 (2) \$15 for each registration for transient accommodations
16 consisting of six or more units; and
- 17 (3) \$15 for each resort time share vacation plan within
18 the State;

19 upon receipt of which the director shall issue a certificate of
20 registration in such form as the director determines, attesting
21 that the registration has been made. The registration shall not



1 be transferable and shall be valid only for the operator or plan
2 manager in whose name it is issued and for the transaction of
3 business at the place designated therein. Acquisition of
4 additional transient accommodation units after payment of the
5 one-time fee shall not result in additional fees.

6 (b) The registration, or in lieu thereof a notice stating
7 where the registration may be inspected and examined, shall at
8 all times be conspicuously displayed at the place for which it
9 is issued. [~~Acquisition of additional transient accommodation~~
10 ~~units after payment of the one time fee shall not result in~~
11 ~~additional fees.~~] The name, phone number, and electronic mail
12 address of the local contact shall at all times be conspicuously
13 displayed in the same place as the registration or the same
14 place as the notice stating where the registration may be
15 inspected and examined. Failure to meet the requirements of
16 this subsection shall be unlawful. The department may issue
17 citations to any person who fails to conspicuously display the
18 registration or notice, or the local contact's name, phone
19 number, or electronic mail address as required by this
20 subsection. A citation issued pursuant to this subsection for
21 each transient accommodation or resort time share vacation



1 interest, plan, or unit in violation of this subsection shall
2 include a monetary fine of not less than:

3 (1) \$500 per day, for a first violation for which a
4 citation is issued;

5 (2) \$1,000 per day, for a second violation for which a
6 citation is issued; and

7 (3) \$5,000 per day, for a third and any subsequent
8 violation for which a citation is issued.

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

12 (1) The registration identification number or an
13 electronic link to the registration identification
14 number of the operator or plan manager issued pursuant
15 to this section; and

16 (2) The local contact's name, phone number, and electronic
17 mail address, provided that this paragraph shall be
18 considered satisfied if this information is provided
19 to the transient or occupant prior to the furnishing
20 of the transient accommodation or resort time share
21 vacation unit.



1 (d) Failure to meet the requirements of subsection (c)
2 shall be unlawful. The department may issue citations to any
3 person, including operators, plan managers, and transient
4 accommodations brokers, who violates subsection (c). A citation
5 issued pursuant to this subsection for each transient
6 accommodation or resort time share vacation interest, plan, or
7 unit in violation of subsection (c) shall include a monetary
8 fine of not less than:

- 9 (1) \$500 per day, for a first violation for which a
10 citation is issued;
11 (2) \$1,000 per day, for a second violation for which a
12 citation is issued; and
13 (3) \$5,000 per day, for a third and any subsequent
14 violation for which a citation is issued.

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



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

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



1 be the same as that prescribed by section [~~231-34~~] 231-35 for
2 individuals, corporations, or officers of corporations, as the
3 case may be, for violation of that section.

4 (h) Any monetary fine assessed under this section shall be
5 due and payable thirty days after issuance of the citation,
6 subject to appeal rights provided under this subsection.
7 Citations may be appealed to the director of taxation or the
8 director's designee."

9 SECTION 5. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

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

17 SECTION 7. This Act shall take effect on January 1, 2016.

18



Report Title:

Vacation Rentals; Transient Accommodations Tax; Registration; Advertisements

Description:

Authorizes fines to be deposited into the tax administration special fund. Increases the balance that may be retained in the tax administration special fund in each fiscal year. 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 and resort time share vacation plans. Authorizes DOTAX to issue citations for failure to provide the registration identification number or link to the number and the contact information of the local contact in an advertisement for a transient accommodation or resort time share vacation plan. Takes effect 1/1/16. (CD1)

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

